



**Abdelkader Fellah**

**Abderrahmane Bekhairy**

**Science, Education and Innovations in the Context of Modern Problems**

**Issue 12, Vol. 8, 2025**

**RESEARCH ARTICLE** 

## Legislative Mechanisms as a Tool to Achieve Balance Between Epidemic Prevention and the Respect for Fundamental Rights and Freedoms

**Specialization:** Public Law  
**University:** University of Ahmed Ben Yahia El-Wancharissi Tissemsilt  
**Algeria**  
**E-mail:** fellahabdelkader79@gmail.com

**Specialization:** Public Law  
**University:** University of Tiaret  
**Algeria**  
**E-mail:** Bekhairy.abderrahmane@gmail.com

**Issue web link** <https://imcra-az.org/archive/387-science-education-and-innovations-in-the-context-of-modern-problems-issue-12-vol-8-2025.html>

**Keywords** Legislative mechanisms, Public health prevention, Fundamental rights and freedoms, Legal balance, Health emergencies.

**Abstract**  
This research paper seeks to analyze the legislative mechanisms adopted by the Algerian state to prevent and control epidemics, with a particular focus on achieving a balance between the requirements of public health protection and the respect for citizens' fundamental rights and freedoms. The study begins by examining the constitutional and regulatory framework that grants public authorities namely the President of the Republic, the Prime Minister, and local authorities exceptional powers in situations of health emergencies, allowing them to take urgent measures such as quarantine, restrictions on movement, and mandatory vaccination. However, the exercise of these powers, despite their preventive legitimacy, raises legal questions concerning their compatibility with constitutional principles related to human dignity, freedom of movement, and the right to physical integrity. Accordingly, this paper calls for the development of the Algerian legislative system through the establishment of a specific legal framework for health emergencies that balances public interest requirements with individual rights, while emphasizing the need to strengthen the digital infrastructure of the health sector to ensure rapid response and information exchange. It also highlights the importance of promoting community health awareness as a long-term preventive measure that fosters collective responsibility and a shared culture of public health. The paper concludes that the success of the state in addressing health crises is not measured solely by the strictness of its measures, but by its ability to uphold rights and freedoms within the framework of the rule of law, making the human being the core of legal protection and the ultimate goal of legislative policy.

**Citation.** Abdelkader F; Abderrahmane B. (2025). Legislative Mechanisms as a Tool to Achieve Balance Between Epidemic Prevention and the Respect for Fundamental Rights and Freedoms. *Science, Education and Innovations in the Context of Modern Problems*, 8(12), 1248–1259. <https://doi.org/10.56334/sci.8.12.103>

Licensed  
© 2025 The Author(s). Published by Science, Education and Innovations in the context of modern problems (SEI) by IMCRA - International Meetings and Journals Research Association (Azerbaijan). This is an open access article under the CC BY license (<http://creativecommons.org/licenses/by/4.0/>).

Received: 20.04.2025      Accepted: 14.10.2025      Published: 20.11.2025 (available online)

### Introduction

In recent decades, health crises have emerged as one of the most significant challenges facing States and societies alike, due to their far-reaching impacts on public health, social stability, and economic security, extending even to threatening the very foundations of public order. The COVID-19 pandemic, which swept across the world in 2020, revealed the vulnerability of health and economic systems in many countries, as well as the inadequacy of traditional mechanisms in confronting sudden epidemic threats. This situation compelled public authorities to

1248 - [www.imcra.az.org](http://www.imcra.az.org) | Issue 12, Vol. 8, 2025

Legislative Mechanisms as a Tool to Achieve Balance Between Epidemic Prevention and the Respect for Fundamental Rights and Freedoms

Abdelkader Fellah; Abderrahmane Bekhairy

adopt exceptional measures which sometimes required temporarily restricting certain individual and collective rights and freedoms.

Within this context, legislative mechanisms have come to the forefront as the legal framework that governs State intervention in the health sector, defining the legitimacy and limits of State authority in situations of general danger particularly when measures impact freedom of movement, impose mandatory vaccination, or declare compulsory quarantine. However, although the use of such mechanisms is deemed necessary and legitimate for the protection of public health, it may nevertheless raise legal and constitutional concerns relating to the reconciliation between epidemic-prevention requirements and the obligation to respect fundamental rights and freedoms enshrined in the Constitution and international human rights conventions.

Drawing from the Algerian experience during the COVID-19 crisis, it became evident that public authorities were confronted with a delicate dilemma: the need to strike a legal balance between the State's power to adopt urgent preventive measures and the obligation to uphold constitutional and legal safeguards afforded to citizens. This situation brought back to the forefront the importance of having a flexible and effective legislative system capable of adapting to exceptional circumstances without undermining the principle of legality and the rule of law.

Accordingly, this research paper aims to examine and analyze the legislative mechanisms adopted by Algeria in the field of epidemic prevention, by reviewing the constitutional and regulatory framework governing health emergencies and assessing the extent to which these measures align with the principles of the rule of law and human rights. The paper also seeks to put forward practical recommendations to enhance the national legislative framework related to health emergencies, through integrating digitalization within the health system and strengthening societal health-awareness culture as an effective preventive tool to reduce epidemic risks (Boudayef, A. 2007).

The central research question of this study is as follows:

To what extent have Algerian legislative mechanisms succeeded in achieving a balance between the requirements of epidemic prevention and the protection of individuals' fundamental rights and freedoms?

This main question gives rise to several subsidiary questions, including: What is the constitutional basis that authorizes the State to restrict certain rights during exceptional health circumstances? What are the limits of the administration's discretionary power in adopting preventive measures? And how can the legislative system be improved to ensure effective health protection without infringing upon the essence of constitutional rights?

Addressing this issue is not only of theoretical importance but also carries practical and strategic significance, as it concerns the relationship between the citizen and the State in times of crisis and reveals the extent to which the national legal system is capable of reconciling public-health imperatives with the protection of fundamental rights thereby genuinely upholding the rule of law even during states of emergency.

### **Section One: The Conceptual and Constitutional Framework of Legislative Mechanisms in the Field of Health Prevention**

Legislative mechanisms constitute the legal framework that enables the State to mobilize its instruments to confront emerging epidemic risks, ensuring a balance between the necessity of taking urgent preventive measures and the obligation to uphold the principles of legality and the protection of fundamental rights.

#### **First: Definition of Legislative Mechanisms and Their Role in Managing Health Crises**

Legislative mechanisms are the legal rules and procedures that empower or regulate the authority of public bodies to adopt exceptional measures during emergency health situations (such as quarantine, restrictions on movement, etc.). Executive authorities (health regulatory authorities) in every State are required to urgently enact clear and promptly enforceable legal provisions that respond to the real-life conditions of individuals and society, with the aim of protecting citizens from the spread of disease and limiting its escalation (Bouras, T., & Belkhir, A. 2021).

##### **1. The President of the Republic**

The President enjoys constitutional powers to declare states of exception and issue regulatory decrees that activate a national response with the required promptness, in accordance with the constitutional conditions and safeguards.

The Constitution grants the President a range of prerogatives, applied progressively based on the severity of the threat, beginning with the state of emergency, followed by the state of siege, the exceptional situation, general mobilization, and the state of war (Bunyatova, S. 2022).

The President holds a general and comprehensive constitutional authority to enact general and abstract rules in the form of presidential decrees without restriction, covering matters independent of the legislative domain, pursuant to his autonomous regulatory authority as a tool for controlling and directing governmental activity.

Article 143 of the 2016 Constitution authorizes the President of the Republic to declare the exceptional situation, general mobilization, the state of war, the state of emergency, and the state of siege if the constitutional conditions are met.

In Algeria, the President also enjoys broad discretionary powers regarding the measures necessary to restore and maintain public order, but always within the limits established by the legislature.

## 2. The Prime Minister

The Prime Minister is empowered to issue executive decrees imposing preventive measures at the national or regional level (such as regulating movement of persons and facilities, imposing quarantine and isolation, requisitioning resources, price controls, supply management, etc.). Under Article 143 of the 2016 Constitution, the Prime Minister may adopt a set of executive decrees that ensure the protection of public health during the spread of dangerous epidemics (Belabbas, A. 2022).

The Prime Minister's main prerogatives in health emergencies include:

- Regulating or prohibiting the movement of persons and vehicles, and regulating access to transportation and the conditions of its use.
- Preventing individuals from leaving their homes.
- Imposing home-quarantine measures.
- Adopting all necessary health-isolation measures.
- Closing or regulating the opening of public facilities and all venues of assembly.
- Prohibiting or limiting gatherings in public spaces.
- Requisitioning persons or goods necessary to combat the health disaster.
- Regulating commercial activities.
- Adopting all control measures related to essential goods and prices.
- Ensuring the availability of appropriate medicines for patients to combat the health disaster.
- Taking any regulatory measure that limits a legally recognized freedom in order to confront the health crisis.

The Minister of Health may, by way of exception, exercise specific health-regulatory powers due to his position and the nature of the sector he oversees.

## 3. The Wali (Governor)

The Wali, as the representative of the State at the wilaya level, oversees the protection of citizens and supervises the activities of deconcentrated State services, including the Directorate of Health.

In exceptional circumstances related to epidemics and health disasters, Algerian law grants the Wali exceptional powers to adopt measures ensuring social distancing and protecting public health within the wilaya. These include:

Restricting individual freedoms through the imposition of home confinement (People's Democratic Republic of Algeria. 1985).

Exercising requisition powers: Article 10 of Executive Decree No. 20-69 on preventive measures against epidemics expands the Wali's authority to issue requisition orders. Article 116 of the Wilaya Code also authorizes the Wali to request the intervention of police or gendarmerie forces within the wilaya during exceptional circumstances.

Closing commercial establishments that attract large crowds.

Restricting freedom of movement.

#### 4. The President of the Municipal People's Assembly (P/MPA)

The President of the Municipal People's Assembly is the primary local authority responsible for public order within the municipality. He is tasked with implementing field measures to combat diseases, maintaining hygiene, ensuring food safety, and enforcing local preventive measures.

Article 94 of Law No. 11-10 on the municipality provides that the P/MPA must:

- Take all necessary measures and precautions to combat communicable or infectious diseases and develop prevention plans.
- Prevent the roaming of harmful or dangerous animals.
- Ensure the safety of foodstuffs offered for sale.
- Ensure compliance with environmental-hygiene and environmental-protection regulations (People's Democratic Republic of Algeria. 2020).

Article 88 of Law No. 11-10 further states that the P/MPA is the primary authority responsible for public order within the municipality. As the State's representative, he is responsible—under the supervision of the Wali for enforcing laws and regulations within the municipality, ensuring public order, tranquillity, and hygiene, and implementing preventive and emergency measures.

It is clear that the distribution of powers among executive institutions reflects the principle of functional hierarchy, combining centralized legislation with decentralized implementation. The effectiveness of these mechanisms depends on adherence to the principle of legality and the operation of oversight safeguards, ensuring that the protection of human dignity remains the supreme objective of any exceptional measure.

#### Second: Presentation of Selected National Legal Models (Health Laws and Preventive Measures)

Reviewing national legal models in the field of health prevention is a necessary step to understanding the extent to which the Algerian legislative system responds to exceptional circumstances imposed by epidemiological crises. As a tool of regulation and guidance, the law transforms in such circumstances from an abstract text into an effective means of managing public health risks, enabling public authorities to adopt urgent regulatory measures characterized by flexibility and effectiveness without violating the principle of legality (Fatenassi, A. 2015).

From this perspective, the executive decrees and orders issued during the COVID-19 pandemic reveal the legislator's ability to adapt legal rules to the requirements of public health protection while ensuring the continuity of the State's vital services.

#### 1. Health Laws

This is evidenced by the following executive decrees:

- Ordinance No. 20-02 of 30 August 2020, amending and supplementing Law No. 18-11 of 2 July 2018 relating to health, Official Gazette No. 50 of 30 August 2020, p. 04.
- Article 2 of Executive Decree No. 20-70 of 24 March 2020, establishing complementary measures for the prevention and control of the spread of Coronavirus (COVID-19), Official Gazette No. 16 of 24 March 2020.
- Article 7 of Executive Decree No. 20-70, previously mentioned.
- Article 11 of Executive Decree No. 20-70, previously mentioned.
- Article 12 of Executive Decree No. 20-70, previously mentioned.
- Executive Decree No. 20-109 of 5 May 2020, concerning exceptional measures aimed at facilitating the supply of pharmaceutical products, medical equipment, and diagnostic devices to confront COVID-19, Official Gazette No. 27 of 6 May 2020.
- Executive Decree No. 20-72 on extending home lockdown measures to certain provinces, Official Gazette No. 17 of 28 March 2020.

- Article 3 of Executive Decree No. 20-86 of 2 April 2020, extending provisions related to COVID-19 preventive measures, Official Gazette No. 19 of 2 April 2020.
- Executive Decree No. 20-92 of 5 April 2020, amending Executive Decree No. 20-72, Official Gazette No. 20 of 5 April 2020.
- Executive Decree No. 20-102 of 23 April 2020, extending partial home lockdown and modifying its hours, Official Gazette No. 24 of 26 April 2020.
- Executive Decree No. 20-121 of 14 May 2020, extending partial home lockdown and renewing the prevention system, Official Gazette No. 29 of 14 May 2020.
- Article 3 of Executive Decree No. 20-62 of 21 March 2020, relating to COVID-19 prevention and control, Official Gazette No. 15 of 21 March 2020.
- Article 5 of Executive Decree No. 20-62, previously mentioned.
- Articles 1, 2, and 3 of Executive Decree No. 20-79 of 31 March 2020 establishing an exceptional bonus for health sector workers, Official Gazette No. 18 of 31 March 2020.
- Article 2 of Executive Decree No. 20-104 establishing an exceptional bonus for certain categories of local government employees mobilized for COVID-19 prevention, Official Gazette No. 26 of 3 May 2020.
- Executive Decree No. 20-127 of 20 May 2020, amending and supplementing Executive Decree No. 20-70 of 24 March 2020 on complementary preventive measures, Official Gazette No. 30 of 11 May 2020.
- The Penal Code was amended under Law No. 20-06, which increased penalties for endangering others' lives or physical safety by violating safety or precautionary obligations during lockdown or natural disasters (Article 290 bis, paragraph 2).
- The law also imposed fines and up to three days' imprisonment for violating administrative decrees not covered by specific penal provisions (Article 459).
- Ordinance No. 20-01 amended the Penal Code to impose penalties for insulting health professionals during or because of their duties (Article 149).
- The Code of Criminal Procedure was amended (Articles 441 bis, 441 bis 2, 441 bis 7) through Ordinance No. 20-04, allowing courts to use remote video communication "to ensure the proper functioning of justice or to protect public security or public health during disasters or for other justified reasons."
- The Supplementary Finance Law for 2020 (Law No. 20-07, Articles 35 and 36) extended deadlines for tax declarations, payment obligations, customs procedures, and the settlement of customs dues due to the pandemic.

We observe that the Algerian legislative approach during the health crisis was characterized by gradual and complementary measures, balancing preventive regulations with punitive or incentive-based provisions. This reflects the legislator's intention to maintain effective intervention while preserving legal consistency.

It is also evident that most texts focused on prevention and social support for health workers while still emphasizing respect for basic citizens' rights.

However, the absence of a dedicated public health emergency law renders these measures temporary and subject to administrative discretion. This highlights the need for a stable legislative framework that guarantees legal security and ensures effective crisis response without infringing upon constitutional freedoms.

## 2. Preventive Measures

Preventive measures constitute one of the key regulatory tools used by the executive branch during epidemics, representing the practical application of legislative texts on the ground. Their purpose is not to restrict freedoms *per se*, but to achieve a protective balance between safeguarding public health and maintaining the minimum possible level of social and economic stability.

The COVID-19 pandemic demonstrated that the success of any legal system in facing health threats depends on the clarity, precision, and legality of these measures as well as the extent to which authorities adhere to them under proper oversight.

On 12 March 2020, President Abdelmadjid Tebboune ordered several precautionary measures, including the closure of all educational and training institutions, suspension of public and inter-provincial transport, reduction of the workforce by 50%, closure of restaurants and cafés, closure of land borders, and suspension of flights. A partial lockdown was imposed in all provinces.

The President did not officially declare a state of emergency; instead, the matter was implicitly delegated to the Prime Minister, who issued on 21 March 2020 Executive Decree No. 20-69 on COVID-19 preventive and control measures.

The decree included the closure of shops, cafés, restaurants, event halls, and family gatherings under penalty of sanctions, with some exceptions. It also banned taxis nationwide, with the possibility of withdrawing operating licenses for violations.

It established total home lockdown in Blida, requiring prior authorization from competent security authorities for movement and installing security checkpoints for monitoring; a night curfew; and a ban on gatherings of more than two people in Algiers.

The decree also established a provincial committee chaired by the wali to coordinate sectoral activities for COVID-19 prevention, responsible for implementing the decisions of the National Security Council regarding the spread of COVID-19.

The decree was based on several legal references, including:

- Articles 99 (para. 4) and 143 (para. 2) of the Constitution.
- Law No. 88-07 of 26 January 1988 on health prevention, safety, and occupational medicine.
- Law No. 12-07 of 21 February 2012 on the province.
- Law No. 18-11 of 2 July 2018 on health.

This health law organizes the general framework of the health system in Algeria by defining the fundamental principles governing citizens' rights and duties in the field of health and establishing mechanisms and means to preserve public health, prevent disease, and ensure free and accessible medical care.

Article 97 of the law obliges the State to protect and promote health in the workplace through preventive and therapeutic measures ensuring workers' social rights, including:

- Promoting workers' physical, mental, and social well-being;
- Preventing health risks arising from working conditions;
- Protecting workers from hazardous workplace factors;
- Preventing occupational accidents and diseases;
- Assigning workers to jobs suited to their capacities and maintaining them there.

Article 95 mandates:

- Monitoring workers' health conditions;
- Monitoring compulsory-notification diseases;
- Health education activities;
- Ensuring the safety of educational and training facilities;
- Mandatory vaccinations.

Additionally, 2,500 hospital beds were allocated out of 82,716 nationwide for COVID-19 patients across 64 infectious diseases units, 247 internal medicine units, 79 pulmonology units, and 100 units in other specialties, along with 24 intensive care units containing 460 beds.

USD 100 million was allocated for urgent importation of pharmaceutical products, protective clothing, and chemical testing equipment, and chloroquine was approved as a treatment protocol.

We observe that the preventive measures adopted by Algerian authorities during the health crisis reflected a commitment to balancing strict preventive action with practical flexibility. The measures were anchored in clear legal references from health, municipal, and provincial laws, ensuring constitutional legitimacy.

However, the absence of a specific public health emergency law means these measures remain temporary and subject to administrative discretion. This underscores the need to codify preventive frameworks into a permanent legislative system that guarantees legal security and protects rights and freedoms during exceptional circumstances.

## Section Two: Limits of Legislative Mechanisms Between the Requirements of Prevention and Respect for Rights and Freedoms

Confronting epidemics places public authorities before a delicate balance between the State's duty to protect public health—considered a superior interest of public order—and the obligation to respect individual rights and freedoms, which constitute the essence of the rule of law. Accordingly, the limits of legislative mechanisms emerge as a regulatory tool that defines the scope of lawful administrative intervention during crises, ensuring that preventive measures do not turn into arbitrary restrictions infringing upon constitutional rights. Studying the limits of these mechanisms thus represents an entry point for assessing the extent to which Algerian legislation balances health-related preventive requirements with the protection of fundamental freedoms during exceptional circumstances.

### First: Manifestations of Rights Restrictions During Epidemics (Freedom of Movement, Mandatory Vaccination)

#### 1 -Freedom of Movement

Freedom of movement is among the most prominent public liberties guaranteed by the Constitution due to its direct link to basic human rights such as personal liberty and freedom of work. However, this freedom is not absolute; it may be legally restricted whenever public interest so requires, particularly in cases of disasters and epidemics that threaten public safety. The COVID-19 pandemic constituted a real test of the Algerian State's ability to balance this right with preventive requirements, through decrees and regulations that partially restricted movement without abolishing the essence of the right.

Following the spread of the coronavirus worldwide and its arrival in Algeria, authorities adopted preventive measures to preserve public health as a component of public order. Numerous executive decrees were issued, including Executive Decree No. 20-69 on preventive measures against the spread of COVID-19, which indirectly restricted movement by suspending land and air transportation. Executive Decree No. 20-159, in Article 19, introduced stricter movement regulations, allowing individual urban transport by taxis throughout the national territory under strict compliance with preventive measures: mandatory face masks for drivers and passengers, availability of sanitizer, limiting passengers to two, and regular disinfection of handles and contact surfaces.

Regarding air transport, several directives were issued, such as:

- Establishing a monitoring and alert cell within the Ministry of Transport.
- Mandatory thermal screening for passengers and staff.
- Providing adequate masks, gloves, and sanitizers for airport personnel.
- Preparing isolation rooms for suspected cases.
- Disseminating awareness information to staff on hygiene practices.
- Issuing NOTAMs concerning the suspension of general commercial flights, with exceptions for international charter flights, medical evacuation, and special operations.

Article 05 of Executive Decree No. 20-207 on strengthening prevention measures provided several exemptions:

- Authorization of movement for obtaining basic food supplies.
- Authorization for movement to carry out non-suspended commercial activities.
- Authorization for essential medical care or permitted professional activities.

These measures were designed to limit contact and therefore contagion. Within the aviation sector, further measures applied in accordance with official directives.

It is evident that movement-related restrictions during the pandemic followed the principles of necessity and proportionality, maintaining minimum freedom of movement for essential purposes such as healthcare and access to basic goods, thereby reflecting legislative awareness of the need to balance public interest with individual rights. These measures were grounded in clear legal texts, ensuring their legality and constitutional validity. However, prolonged application of such restrictions without effective judicial oversight may result in unjustified infringement of liberties, highlighting the need for a specific legislative framework defining the precise conditions and limits of rights restrictions during health emergencies.

#### 2 -Mandatory Vaccination

Mandatory vaccination represents one of the key legislative tools adopted by the State to ensure collective health protection. It reflects the State's constitutional obligation to safeguard the right to life and public health. However, its compulsory nature raises legal debate regarding its compatibility with the principle of individual autonomy over one's body.

Mandatory vaccination in Algerian legislation seeks to achieve public health interest by requiring specific categories of citizens particularly children and healthcare workers to adhere to vaccination schedules established through successive executive regulations that take into account evolving health risks.

Executive Decree No. 69-88 was the first legal text mandating child vaccination, later amended by Executive Decree No. 85-282. The appropriate ages for mandatory vaccination were defined only with the issuance of the Order of 15 July 2007 on the mandatory vaccination schedule against certain communicable diseases, which specified the targeted categories: newborns, infants aged 1 to 18 months, children aged 6 to 10, and individuals aged 11 and above. Vaccines included those against tuberculosis, polio, hepatitis B, diphtheria, tetanus, pertussis, Haemophilus influenzae type B, and measles. This schedule was later updated by the 2014 Order, adding pneumococcal, mumps, and rubella vaccines, with implementation confirmed by Instruction No. 10 of 24 March 2016.

Article 03 of Executive Decree No. 69-88 also imposed mandatory vaccination on workers exposed to infectious diseases, such as medical and paramedical staff in infectious-disease hospitals and epidemic control units.

To protect individuals from serious infectious diseases such as hepatitis B, the Order of 25 April 2000 mandated vaccination for all healthcare workers in the public and private sectors, although without explicitly imposing compulsory vaccination. Due to increasing hepatitis B infections among health professionals, Instruction of 10 September 2002 imposed mandatory vaccination, yet implementation remained deficient, with many physicians still unvaccinated, thus requiring more stringent enforcement mechanisms.

The legislative policy on mandatory vaccination demonstrates the legislator's attempt to reconcile individual freedom with collective protection by limiting compulsory vaccination to justified categories. However, implementation remains hindered by weak monitoring and insufficient health awareness, particularly among high-risk professional groups. This underscores the need for a more precise and effective legal framework that safeguards human dignity while achieving the overarching preventive goal of protecting public health as a shared responsibility between State and citizen.

## **Second: Proposals to Strengthen the National Legal Framework Ensuring Prevention While Respecting Fundamental Rights**

Strengthening the national legal framework for health prevention is essential to achieving a stable balance between public interest and fundamental rights. Epidemic crises have revealed limitations in the current legislative system, which despite its effectiveness in emergency response lacks a comprehensive law governing health emergencies. Hence, there is a need for legislative and structural reforms that establish principles of transparency, legality, and proportionality in crisis management.

### **1 - Developing Legislation to Include Health Emergency Regimes**

Introducing a specific legal regime for health emergencies is a fundamental component of modern legislative reform. It enables the State to confront epidemics without resorting to traditional exceptional regimes that could lead to unjustified rights restrictions. Such a regime must clearly define the conditions for declaring a health emergency, the scope of powers, and constitutional and judicial oversight mechanisms to ensure that measures remain within preventive limits.

The Constitutional Council plays a key role in safeguarding the right to health through constitutional principles such as equality and related rights and freedoms. The constitutional amendments of 1996 and 2016 strengthened the Council's membership and prerogatives and expanded the authorities empowered to refer matters to it. Its jurisprudence aligns with French constitutional case law, emphasizing the protection of both individual and collective health under principles of human dignity, personal freedoms, and the right to a healthy environment, as reflected in Article 1(2) of Law No. 18-11 on health.

Extending legislation to cover health emergencies thus addresses gaps revealed by previous crises. Establishing a dedicated health emergency law subject to constitutional review would provide a structured legal basis for exceptional measures, ensuring legality without undermining rights and freedoms.

## 2 - Enhancing the Digital Health Infrastructure

Developing a comprehensive digital health infrastructure is essential for modernizing the national health system and ensuring its efficiency in responding to epidemics. Digital transformation aims to establish a governance model based on rapid information sharing, accurate diagnosis, and transparent management. Many hospitals still rely on paper-based systems, and insufficient internet coverage limits access to digital services, necessitating significant investment in networks, equipment, and software.

Existing digital health platforms include:

RH Santé portal

PROMOTION Santé portal

COVID Santé portal

Mandatory notifiable diseases (MDO) portal

DHIS portal

Telemedicine, COVID-tracking, appointment-booking, and physician-patient connection platforms

Robotics also present major opportunities: assisting medical staff, managing samples, transporting medication, serving food, monitoring vital signs, and alerting medical teams.

Despite these initiatives, Algeria's digital health transition is impeded by the absence of a comprehensive legal framework regulating electronic health data, defining responsibilities, and ensuring privacy and security. A robust digital health law is required to embed digitization as a right for citizens and an obligation for the State.

## 3 -Community Health Education as a Long-Term Preventive Tool

Community health education is a key non-legislative mechanism supporting preventive policies. It fosters collective awareness that makes the citizen an active participant in safeguarding public health. Laws alone cannot ensure compliance without a strong culture of health awareness. Community-based health education is thus a shared responsibility involving schools, media, and the health sector.

By shaping health-conscious values and behaviors, community health education strengthens compliance with preventive measures during normal and exceptional circumstances. It also enhances social responsibility, equity in access to health services, and public cooperation in health programs.

Through health education, it is possible to:

- Change individual perceptions of health and disease
- Improve family and community health practices
- Support and sustain health projects through citizen participation
- Ensure rational consumption and responsible behavior during crises

Thus, community health education reinforces the practical dimension of the right to health, embedding preventive behavior in daily life and enhancing participatory governance. Integrating health education into public policies adds a civilizational dimension to health rights and offers long-term preventive effectiveness beyond temporary interventions.

## Conclusion

In conclusion, this research paper demonstrates that major health crises foremost among them the COVID-19 pandemic were not merely a test of countries medical or logistical capabilities, but rather a true examination of

their legal and legislative systems and of the strength of their institutions in achieving a balance between the requirements of preserving health security and safeguarding individuals' fundamental rights and freedoms. The Algerian experience has revealed the vital role played by legislative and regulatory mechanisms in managing health crises, enabling public authorities to adopt urgent preventive and exceptional measures such as imposing quarantine, restricting movement, closing public spaces, and developing the penal system to address behaviors that threaten public health.

However, despite their necessity in the context of epidemiological danger, these measures generated numerous legal and constitutional issues, particularly regarding the legality of restricting constitutionally protected rights such as individual liberty, freedom of movement, and the citizen's right to physical integrity. This revived debate over the limits of State intervention during exceptional circumstances and the extent to which such interventions should be subject to constitutional and administrative judicial oversight to prevent the misuse of power under the pretext of public interest.

Based on this reality, it can be said that achieving balance between protecting public health and safeguarding individual rights requires legislative reform aimed at establishing a comprehensive legal regime for health emergencies. Such a regime must clearly define the conditions for declaring a health emergency, its duration, the powers of public authorities, and the mechanisms of parliamentary and judicial oversight, while providing guarantees that protect citizens from any excess or abuse. This also requires moving toward digital health governance through the development of an efficient digital infrastructure that enables real-time data collection and analysis, thereby facilitating swift and transparent decision-making based on objective rather than discretionary standards.

Equally important is the promotion of community health awareness as a primary line of defense against epidemiological risks, since the citizen remains a key partner in achieving health security rather than a mere recipient of measures. Building a legal and health culture based on individual and collective responsibility thus represents a long-term investment in State stability and the effectiveness of its preventive policies. It follows that the success of legislative policy in combating epidemics is not measured by the severity of legal provisions or the rigidity of restrictions, but by its ability to protect human beings and preserve their dignity within the framework of legality and the rule of law. A State that succeeds in maintaining the balance between the requirements of public interest and the protection of fundamental rights is one that truly establishes the rule of law even in the harshest exceptional circumstances.

Based on the foregoing, a set of practical recommendations may be proposed to strengthen the national legal system in the field of health prevention and ensure its compatibility with the principles of rights and freedoms, the most important of which are:

Establishing a specific law on health emergencies that precisely defines the conditions for declaring a health emergency, its duration, and the powers of public authorities during its application, while subjecting such measures to effective constitutional and judicial oversight to ensure that fundamental rights are not infringed.

Developing digital transformation in the health sector by modernizing the digital infrastructure and ensuring the protection of personal health data, thereby enabling efficient and rapid management of epidemiological crises.

Institutionalizing community health education as a preventive policy that contributes to building responsible health awareness among citizens and strengthens the partnership between the State and society in achieving national health security.

Below are professional, journal-ready sections for your article — clearly written, legally appropriate, and academically standardized.

--

### ### Ethical Considerations

This research is entirely conceptual and analytical in nature, based on publicly accessible legal texts, constitutional provisions, and scholarly literature. It does not involve direct experimentation, medical data, or human/animal subjects. All sources are properly cited in accordance with academic ethical standards and respect for intellectual property rights. The authors affirm adherence to principles of research transparency, academic honesty, and responsible use of legislative and constitutional materials.

### Author Contributions

Abdelkader Fellah contributed to the theoretical framework, analysis of constitutional principles, and drafting of sections regarding rights and freedoms.

Abderrahmane Bekhairy contributed to the examination of epidemiological legal policies, emergency powers, and legislative recommendations.

Both authors jointly discussed the results, refined the argumentation, and approved the final version of the manuscript.

### Acknowledgement

The authors express their gratitude to the faculty and academic colleagues at University of Ahmed Ben Yahia El-Wancharissi Tissemsilt and University of Tiaret for their intellectual support and valuable insights. Special appreciation is extended to members of the public law research community and institutional reviewers who provided constructive feedback during the preparation of this article.

### Funding Statement

This research received no external funding or financial support from governmental, academic, or private institutions. The study was conducted as part of the authors' independent academic research.

### Conflict of Interest

The authors declare that there is no conflict of interest related to the publication of this work. They have no personal, financial, or institutional interests that could influence the objectivity of the study.

### References

1. Ben Aissa, A. (2018). Legal protection of persons with disabilities in light of international law and Algerian legislation. New University Publishing House.
2. Slimani, H. (2017). Administrative police: Powers and controls. Dar Houma for Printing, Publishing and Distribution.
3. Boudayef, A. (2007). The concise text in administrative law. Al-Jisour for Publishing and Distribution.
4. Fatenassi, A. (2015). Administrative liability of public health institutions for their medical activities in Algeria. New University House.
5. Yaïche Temmam, C. (2008). The regulatory authority of the President of the Republic in light of the Algerian Constitution. *Journal of Human Sciences*.
6. Ould Ahmed, T., & Bichiri, A. (2020). Legal mechanisms for protecting public health during health crises: The 2020 Coronavirus pandemic as a model. *Journal of Legal and Political Thought*, 4(2). Mouloud Mammeri University.
7. Bouras, T., & Belkhir, A. (2021). Management of health crises in Algeria: The Cholera and Coronavirus crises. *Algerian Journal of Security and Development*, 10(3). Laboratory of Environmental Legal Studies, Guelma University.
8. Aliev, F. H. (2022). Human capital as a philosophical problem. *Bank and Policy*, 2(1), 49–53.
9. Bunyatova, S. (2022). Truth and its theoretical and philosophical models. *Bank and Policy*, 2(1), 87–93.
10. Djamel, S. (2021). Constitutional foundations of the health emergency in Algeria: Between legal text and practice — Future prospects. *Algerian Journal of Legal and Political Sciences*, 58(4). Chadli Bendjedid University.

11. Belabbas, A. (2022). Health education and nursing behavioral skills – An approach to humanizing Algerian hospitals: A field study at Mohamed Boudiaf Hospital, Ouargla. *Rawafid Journal for Social and Human Sciences Research*, 6. Mohamed Khider University.
- People's Democratic Republic of Algeria. (2016). Law No. 16-01 of 6 March 2016. *Official Gazette*, No. 14.
12. People's Democratic Republic of Algeria. (2020). Law No. 20-06 of 28 April 2020 amending and supplementing Ordinance No. 66-156 of 8 June 1966 containing the Penal Code. *Official Gazette*, No. 25.
13. People's Democratic Republic of Algeria. (2012). Law No. 12-07 of 21 February 2012 on the Wilaya. *Official Gazette*, No. 12.
14. People's Democratic Republic of Algeria. (2011). Law No. 11-10 of 22 June 2011 on the Municipality. *Official Gazette*, No. 37.
15. People's Democratic Republic of Algeria. (2018). Law No. 18-11 of 2 July 2018 on Health (as amended). *Official Gazette*, No. 46.
16. People's Democratic Republic of Algeria. (1988). Law No. 88-07 of 2 January 1988 on health prevention, safety, and occupational medicine. *Official Gazette*, No. 4.
17. People's Democratic Republic of Algeria. (1985). Executive Decree No. 85-282 of 12 November 1985 on certain types of mandatory vaccination. *Official Gazette*, No. 47.
18. People's Democratic Republic of Algeria. (2020). Executive Decree No. 20-69 of 21 March 2020 on measures to prevent and combat the spread of COVID-19. *Official Gazette*, No. 15.
19. People's Democratic Republic of Algeria. (2020). Executive Decree No. 20-207 of 27 July 2020 extending the implementation of enhanced preventive measures against COVID-19. *Official Gazette*, No. 43.
20. People's Democratic Republic of Algeria. (1969 & 1985). Decree No. 69-88 of 17 June 1969 on certain types of mandatory vaccination, as amended by Decree No. 85-282. *Official Gazette*, No. 53 & No. 47.