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Comparative analysis between Western and Eastern Human Rights perspective in reference to the measures taken by the People's Republic of China to control the COVID-

19

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DEDICATION

I dedicate this research work to all the people who supported and motivated me during its course.

To the people who supported me during my university career and throughout my vocational and personal learning to never give up and be able to achieve all my goals and dreams.

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ABSTRACT

This research work was carried out with the objective of making a comparative analysis between the western and eastern perspective of Human Rights in reference to the measures taken by the People's Republic of China to control COVID-19. Therefore, the measures applied by a Western and an Eastern representative, the United States and the People's Republic of China, are examined. Measures to contain the virus and reduce its consequences are analyzed, taking into account whether compliance with and following of Human Rights occurs or whether the measures limit or violate them. The analysis is carried out not only on the statistical data on the management of the pandemic but also on the popular reaction or compliance by the population, and its proportionality, adding internal factors such as legislation, hierarchy of norms and culture, to conclude if they are necessary, efficient and proportional measures.

Keywords: western, eastern, human rights, coronavirus

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1. Chapter 1: COVID 19 Pandemic

1.1 Introduction: brief history about the beginning of the pandemic (COVID 19) and its immediate consequences around the world.

At the end of 2019, a new pandemic emerged caused by a different type of Coronavirus that changed the world as we knew it. "COVID-19 is a disease caused by a severe acute respiratory syndrome called SARS-CoV-2, which was first reported in China on December 31, 2019" (WHO, 2020). At that time, the virus was reported as a set of strange cases of pneumonia in the city of Wuhan, located in the province of Hubei, with more than 11 million inhabitants. Initially it was considered a simple winter flu, which in a few cases caused pneumonia, until it was realized that it was actually a new type of highly contagious virus. The first signs of this virus went back to the Wholesale Seafood and Exotic Animals Market in Wuhan, because all hospitalized patients who presented symptoms of this virus had a direct relationship with the place, whether they had attended or worked there (Q. Li, and others, 2020). Coming from this type of market, it was determined that the virus could be a zoonotic disease, that is, transmitted by animals. Animal markets for their consumption are a means of prone transmission of diseases between humans and animals, as has already been seen in recent years with avian or swine flu; caused due to unsanitary conditions, decomposing animals, and animals carrying diseases that are easily transmitted to other animals through fluids and particles, similar to what happened with previous outbreaks documented throughout history (Bellucci, 2020).

A recent and closely related case was when, in 2003, the SARS outbreak arose, with the name for its acronym (severe acute respiratory syndrome), a precursor to COVID-19, for which this new

virus was named SARS-CoV-2. However, despite coming from the same family there are many differences between them. SARS-CoV-2 or COVID-19 has been shown to have a greater transmission capacity, which also takes place during the incubation period between 1 and 14 days, unlike SARS, which makes its containment difficult and has achieved greater diffusion than its predecessor. The possible origin of both is related to bats, although they do not transmit diseases directly to humans if they are carriers and can transmit them to other animals that humans consume. In January 2020, human-to-human transmission of the virus was confirmed, and the first deaths caused by it in China were also confirmed. It was determined that the contagion was carried out by drops of saliva, making it highly contagious and resistant on various surfaces. Due to the exponential increase in cases, on March 11, 2020, the director general of the World Health Organization declared it a global pandemic, having reached almost all the countries of the world, due to the alarming levels of spread and lack of actions to prevent it (Ghebreyesus, 2020).

Additionally, another factor that hinders its containment are asymptomatic people, who represent the greatest contagion capacity, because by not presenting symptoms they lead their normal lives in contact with more people who can be infected. In this way, exponentially increasing the number of people who can infect without realizing it, and in this way continue to spread the virus. Within the contagion stages, in the first place, there is Phase 1 where cases are imported, that is, infected people arrive from other countries, and spread the virus in the destination country where it did not previously exist. Secondly, there is Phase 2 or Community Transmission, where cases begin to appear without any connection to other initial patients, so many people become infected that the origin of the transmission can no longer be identified. And finally, Phase 3 or Epidemiological Stage, considered the most dangerous and difficult of a pandemic because within

this phase it is estimated that “the virus would have already generally infected more than 1% of the entire population of a country, that the contagion is community-based and the health authorities can no longer follow the chain of infections or make specific isolation / quarantine recommendations” (Medica Sur, 2020). During this stage, cases and deaths increase exponentially due to the possible saturation of medical services because of the extensive number of infections, and the population is expected to follow the guidelines established by their governments such as the mandatory use of masks, quarantine, social distancing, avoiding crowds, curfew, mobility restrictions, disinfection, recurrent hand washing, use of alcohol and antibacterial, among others.

As the pandemic started in China, central and local governments took never-before-seen measures to contain the virus. In mid-January 2020, China activated the highest levels of public health emergency and mobilization in all sectors of the country. Considered the epicenter of the pandemic, the city of Wuhan was closed to limit the mass mobilization of people because the city was a great reference point for flights and trains to other cities in the country. This is how a quarantine and total isolation of the city began, something challenging due to its population that exceeds 11 million people. Added to the central location of Wuhan, was the celebration of the new Lunar Year in China, from January 24 to January 30. It is traditionally one of the most celebrated holidays in China and almost half a billion people travel on these dates (Liu, Chen, & Bao, 2020). Therefore, the virus could spread more easily and quickly before even being officially detected. Given this information, it was determined that the contagion cannot be stopped, but its arrival can be delayed so as not to collapse the health systems, because its collapse would increase the mortality rate, as it does not have enough medical personnel to care for infected people, the infrastructure necessary to treat them, nor the supplements required for their effective treatment

due to the scarce or limited resources in several countries. There has also been talk of the creation of a possible vaccine for immunity to the virus. Recognized pharmaceutical companies have been carrying out initial tests on animals and in its later stages, according to its progress, on humans. Although in December 2020, several vaccines were released and have begun to be applied, to know their effectiveness there is still a long process of clinical trials to be safe for use in humans, in the short and long term, and fulfill the function required. In addition, logistical issues must be taken into account regarding its massive distribution worldwide, and especially the great capacity for adaptation, mutation and evolution of the virus. Until there is an effective treatment or vaccine, proven in its entirety, the only measures to control the virus around the world are briefly social distancing, quarantine, the use of masks and basic biosecurity measures (Liu, Kuo, & Shih, 2020).

Due to these conditions, several governments around the world have implemented social and economic measures in order to control the virus, from quarantine, curfew, social distancing, surveillance and controls, vehicle and movement restrictions, city closures, closing of borders, limits of maximum capacity of attention and the closing of certain establishments of recreation, religious, educational, gymnasiums, among others. In some countries, certain measures have been milder, but in others they have been viewed as highly intrusive, unnecessary, and inefficient. In the case of the People's Republic of China, the methods used by the government to keep the virus under control, such as video surveillance cameras, temperature measuring cameras, dissemination of private information, invasion of privacy in electronic media, and categorization by traffic lights according to the health status of the person, have been questioned. Several Western media confirm the violation of human rights in the measures applied by the Chinese government. Another question that arises is whether the other countries could apply the Chinese mass lockdown

measures in conjunction with the advanced electronic surveillance system imposed by an authoritarian government. Since the outbreak started in China, it has been the country that has carried out the most ambitious, rapid, agile and aggressive plan to contain the virus in history. One of the measures that has stood out the most was the controversial confinement applied in the city of Wuhan, the epicenter of the pandemic, where more than 50 million people were kept in mandatory quarantine for months. The restrictions were controlled by the government through applications such as AliPay and WeChat, used by almost the entire population, where their personal information on physical and financial movements was entered. A personal traffic light system was applied, where the color would be designated according to their health condition and people in red or infected, would be unable to travel and make certain purchases that allow their mobility (Cohen & Kupferschmidt, 2020).

Similarly, other Asian countries have applied measures considered relatively strong compared to Western ones. In South Korea, as in the People's Republic of China, mainly digital media is used to collect information. Through frequent text messages, information about infected people and the exact places they have attended is shared, as well as other personal information of their gender and age. Also in Singapore, anyone who does not respect the quarantine measures will be punished with fines that can reach \$ 10,000 or 6 months in prison. Additionally, the government can make constant calls to infected people and request their current location, as well as periodic visits to their homes (BBC News Mundo, 2020). It is for these reasons that Human Rights come into play, where from a Western perspective it is established that they are not being considered to carry out these measures to control and mitigate the virus in their populations. "Human rights are rights inherent to all human beings, without any distinction of race, sex,

nationality, ethnic origin, language, religion or any other condition" (United Nations, 2020). Therefore, regardless of their origin, situation or location, everyone owns them. Within these Human Rights there are two important categories and closely related to the measures applied to manage the pandemic, Right to Privacy and Right to Free Movement, which as we will analyze below, some measures question or limit their compliance from the perspective of the one that analyzes it. From the western perspective it is generally thought that "Some governments spy on everything their citizens do through mass surveillance to secretly collect, store and analyze the private communications of people around the world" (Amnesty International, 2020). Therefore, the pandemic has only become an excuse to continue and amplify these violations without repercussions, justified as necessary measures for the containment of the virus.

Through the example of countries that implement measures that could be considered from inefficient and weak to strong restrictive measures that may limit certain human rights in order to control the virus, it will be analyzed how the different cultural perspectives of the West and the East directly influence the management of such a complex situation, such as the pandemic, considering certain appropriate, proportional and justifiable practices while others are not. As we have witnessed, at the beginning of 2020, the world was not prepared to feel the effects of a new pandemic that has not only reached all countries but has also remained in the middle and has continued to develop for more than a year. Additionally, the consequences of its rapid and uncontrollable transmission have generated social, political and economic challenges around the entire planet. The pandemic caused by COVID 19 has highlighted serious structural problems in different societies, from precarious health systems, inefficient management by governments and the inability to establish and carry out effective measures to contain and mitigate the virus. To this

day, the official figures on the advance of the virus are not exact because some countries have stopped providing information and there are many gaps in statistical studies due to the lack of verified information. According to Worldometers, it is estimated that more than 220 million people have been infected with the virus, and almost 5 million have died, about 2% of those infected. While almost 195 million have recovered. Leaving as a result around 15 million active cases, of which 99.4% present mild symptoms and only 0.6% serious or critical (Worldometer, 2021). In most countries, cases continue to increase exponentially every day, and new more lethal strains and other milder mutations have been discovered, for which in some States they have already managed to maintain the number of cases or even reduce new infections.

In addition to the great impact that the virus has had on the lives of all humans around the world, creating a "new normal", where many routine activities that we carried out with total normality can no longer be carried out in the same way, or even now nor can they be realized. Where there are notable changes in relation to our old way of life and it is expected that it will continue that way in the future, certain activities, from some so simple to others so complex, that they will never be as they were before. The virus has had such a profound impact that it is almost impossible to measure. This is why there is another very important factor that must also be taken into account when analyzing the impact of COVID-19 and the measures applied by each country. A factor that goes beyond numbers and statistics and that is how the measures implemented by the countries affect their population. There is debate about whether or not the measures applied by governments limit something as essential as the Human Rights of their citizens. Whether or not these measures are too strict, evasive, or justifiable. The answer to these questions depends on many factors, but mainly on who you are asking. There is a polarization between western and

eastern countries regarding the answer to this question, therefore in this work we will analyze whether the measures taken by the People's Republic of China, in order to contain the virus, limit human rights from a western perspective and from an eastern perspective.

This research work will be to analyze whether the measures adopted by the People's Republic of China in order to contain COVID-19 infections and mitigate the virus have been proportional and justified from two main perspectives. On the one hand, the western perspective, for which China has received strong criticism due to the limitations of the human rights of its citizens caused by excessive control, the invasion of privacy and intimacy, and strong restrictions applied. On the other hand, the eastern perspective, which has more easily carried out the measures established by its governments despite being more rigorous than in most countries around the world. Therefore, we will try to solve the question: Can it be analyzed whether the measures taken by the PRC in order to contain the virus limit human rights from a Western and Eastern perspective? COVID 19 has also brought with it the analysis of the management of the virus in many countries around the world, among which the countries that have obtained better results controlling and mitigating it and those that, on the contrary, have obtained less efficient results, stand out. Among them, two opposite poles stand out: the United States and China, both strongly criticized on the one hand due to the mismanagement of effective measures for the prevention and increase of infections and, on the other hand, due to the strong precepts that the government has taken to avoid contagion and the spread of the virus. The different cultural conceptions about human rights are what lead us to these dissident conclusions.

On the other hand, China has a long history of human rights violations and countless controversies where several countries, from a Western perspective, consider that the management of the Chinese government puts at risk the compliance and the following of the human rights of its citizens. But have we ever wondered what the Chinese people really think about the management of their government? Or what is the reality that they live every day, in contrast to ours? Currently due to the coronavirus, the opinion of many, from a Western perspective considers that the measures adopted by the PRC in order to contain the infections have not been justified or proportional to the situation in their country, where they are classified as aggressive and limitations of human rights. But what is the perspective of the Chinese? who live with them every day and not from the outside, like us? Are the measures applied by the government normal for them? After having lived for decades under this type of government, considered intrusive, authoritarian and strictly controlling for Westerners. Are the measures considered necessary due to the severity of the virus, for its containment and correct handling, or they also considered them an abuse of their rights?

2. Chapter 2: Human Rights

2.1 What are Human Rights?

In order to analyze the greatest exponents of Western culture and Eastern culture, and how the pandemic has highlighted the intrinsic differences of these cultures, their principles, values, beliefs and actions; specific aspects will be examined. The acceptance and implementation of different measures to try to carry out the containment of the virus and its mitigation will be taken into account. At the same time, the concept of Human Rights will be analyzed, where they arise, how they are conceived, how they are classified and whether or not they are a tangible reality for these cultures. They can be defined in a general way as "Rights inherent to all human beings, without any distinction of race, sex, nationality, ethnic origin, language, religion or any other condition" (United Nations, 2021). Therefore, all human beings, regardless of their origin and culture, are carriers, by the simple condition of being human, and in no case can they be denied, ignored, or violated. However, there are certain extraordinary circumstances that could limit them, as in the case of public emergencies that compromise the security or stability of a State. Governments can apply these clauses only if they meet the conditions of having declared a state of emergency, confirming the risk in which their State is. They must officially notify the parties involved of the limitation of rights, establishing that the derogation will only be given as long as the situation they are going through requires it. Once the situation ends, the derogation will end in the same way so as not to extend these limitations without justification. (United Nations & Inter-Parliamentary Union, 2016) All limiting clauses or circumstances must be clearly established and justified in advance, otherwise they would be considered arbitrary.

An example of the aforementioned limitation clauses can be given when several people improperly use their freedom of expression and action, promoting unjustifiable behaviors such as xenophobic or discriminatory where the rights and freedoms of other ethnic, racial or social groups are not respected; and in this way they promote offensive actions and comments towards those people. Likewise, the promotion of hatred, the creation of conflicts, the incitement of social disorder, or actions that directly threaten the life of the State, among others, are events that force the State to take measures and limit the Human Rights of the executors of these activities in order to protect and guarantee the Human Rights of vulnerable groups. “Any interference, restriction or sanction must, however, be applied in accordance with national laws and must be necessary to achieve the respective objectives and national interests in a democratic society. In any case, States must demonstrate the need to apply these limitations and adopt only those measures that are proportional to the achievement of legitimate objectives” (United Nations & Inter-Parliamentary Union, 2016). This is important to mention because it leads us to the specific analysis of certain Human Rights, whose conception and application vary depending on the place where they are applied. Rights that within certain Western countries are as relevant as the right to life, including the right to freedom of opinion and expression, the right to private life, the right to freedom of assembly and the right to free movement. Principles that were clearly limited in eastern countries during this new pandemic in order to contain the virus, while in western countries, if similar measures have been applied, limiting these rights, their compliance is very different.

2.2 How do Human Rights originate and from where do they come from?

A key point of Human Rights is that in addition to guaranteeing basic conditions of a dignified life for human beings, they establish and limit relationships between people and also with other

subjects. An example are the guidelines that establish the State, through its obligations and duties with its citizens in order to guarantee them. That is why its origin did not occur overnight, it has been an extensive process that continues to be developed to this day, with more advances, new recognitions and new guidelines that have changed over the years. The emergence of Human Rights is also complex because there is no exact origin, but according to the UN the first historical antecedent of Human Rights is contemplating the Cyrus Cylinder, created 539 years before Christ where the first declaration of rights in the history of humanity is contained, in which the fulfillment of the freedom of its citizens and the freedom to profess their own religion is proclaimed. However, the British Museum, where the Cylinder is currently located, affirms that it "actually reflects a long Mesopotamian tradition where, as early as the third millennium BC, the kings began their reigns declaring their reforms" (Pérez Vaquero, 2017). According to this perspective, it means that the cylinder is only a continuation of the previous reforms. Another historical antecedent was the Magna Carta of 1215, which sought to grant new rights to people and make the authorities also subjects of laws.¹ It was followed by the Petition for Rights of 1628 where concrete guarantees were established for subjects that cannot be violated by anyone, not even by the King. Despite its ineffectiveness, breaches, derogations and different conceptions of all the aforementioned antecedents, they were intended to generate a change and advance in the field of Human Rights, guidelines that have been the basis of what they are today. Another event of great importance in this matter occurred in 1776 in the United States when the Declaration of Independence or Declaration of Rights of Virginia was carried out, where Americans were recognized for the first time as bearers of rights such as to life, freedom and happiness which included its independence

¹ Satrústegui Gil-Delgado, M. (21 de febrero de 2009). La Carta Magna: realidad y mito del constitucionalismo pactista medieval. Historia Constitucional: <http://www.historiaconstitucional.com/index.php/historiaconstitucional/article/view/232/205>

from Great Britain. This step set the precedent for the Declaration of the Rights of Man and of the Citizen that occurred in France in 1789, using as a basis for its Constitution that all citizens are equal before the law and other fundamental principles. The French Revolution and the Independence of the United States were also of great importance for the abolition of slavery, although this did not end immediately because it took almost two centuries, the Revolutions established a new political and philosophical order that later gave way to the Industrial Revolution where the slavery system became obsolete due to the new economic order based on wages. (Net Industries, 2018). The industrial revolution was actually a change of interests that achieved the freedom of millions of people in several countries where more civilians began to acquire more rights regardless of their origin.

The most recent antecedent and with greater consequences today, in fact, the beginning of Human Rights, the conception that we currently apply and know, was raised with the Universal Declaration of Human Rights of 1948. After the world experienced two great world wars with terrible repercussions in all aspects, and in a more catastrophic way in the world powers of the time, it was more than obvious the need to regulate the Rights of the people around the entire planet; or at least that was his goal to prevent these events from repeating themselves. However, some human rights scholars and some eastern countries consider that it was a fully western initiative, for which reason, as we will examine below, purely western conceptions of Human Rights are considered. It is for this reason that in 1945 the United Nations Organization emerged whose preamble proclaims "faith in the fundamental rights of man, in the dignity and worth of the human person (and) in the equal rights of men and women" (Guerra Sesma). Fundamental preamble of the Universal Declaration of Human Rights where for the first time the issue was

treated as essential, independent and relevant in international society, and the states would be the main actors and executors in order to guarantee the Rights of all people no longer only without distinction of race or origin but also gender, where any human person is established as the bearer and worthy of their fundamental rights. This declaration is the cornerstone of many conventions, treaties, norms, laws and principles around the world despite having been prepared by only nine representatives worldwide, of which 6 six were from Western cultures.

That's the reason why "The Declaration is a timeless and powerful document that captures the deep aspirations of humanity to live in conditions of dignity, equality and security. It provides minimum standards and has helped turn moral issues into a legally binding framework" (Vieira de Mello, Former United Nations High Commissioner for Human Rights, message delivered on Human Rights Day, 2002). It is in this way that this organization arises at the international level with a clear and specific objective in the matter of human rights, proclaiming them universal, through actions that help to enact their fulfillment, follow-up, understanding, and dissemination; as well as sanctions and measures, from light to the last and exclusive stage to the use of force, with the prior application of peaceful measures that ensure their protection and reduce the recurrence of their breaches or violations around the world. Currently there are innumerable international treaties on human rights, where the states parties or member states undertake to comply with what has been agreed according to the basic norms of Human Rights. Among them, the aforementioned antecedents stand out, although the history of Human Rights could be considered relatively current due to the great and undoubted changes that have taken place from the 20th century to today. Radical changes in relation to past times, in terms of gender, race, ethnicity, culture and sex. Highlighting mainly the rights of women as a fundamental principle of

equality, however, despite all the efforts and advances it is not something that is fulfilled in all countries where many people, not only women, suffer from discrimination and their fundamental Human Rights are ignored regardless of their race, ethnicity, culture, gender or sex.

Therefore, we can conclude that the emergence of Human Rights was not an isolated event that occurred definitively and quickly, it was through small right and wrong steps throughout the history of humanity, where they were recognized, and considered, increasing their importance within society to become the basis for peaceful coexistence and comprehensive development of States. We see how international legislation on this matter emerged after the Second World War, through the creation of international organizations that promote its application and knowledge to prevent these aberrations from being seen again in our history. Historically, from the time of Cyrus, the monarchs of the United Kingdom, The Independence of the United States, The French Revolution, The Universal Declaration of Human Rights to the most recent International Treaties on Human Rights, have been the path that has continued to achieve it, which has affected the lives of millions of people around the planet. However, not in the same way for all, due to the different cultural conceptions and their different applications, Human Rights are not adopted in the same way in all countries, they even vary according to each person who exercises or applies them. This encompasses more diverse, extensive and profound aspects about its understanding, following and implementation, leading us to the analysis of the classification of human rights in order to subsequently carry out the analysis of Western culture and Eastern culture. In this way, to be able to identify the hierarchy of rights and the reason for their applications or omissions in certain societies.

2.3 How are Human Rights classified?

Within the Human Rights classification we can find one of Norberto Bobbio's multiple contributions on this matter, where he establishes that Human Rights can be classified into four categories and are placed within these categories based on a chronological order due to the importance of the human rights, moment of its emergence and context in its creation.

1st Generation Rights	2nd Generation Rights	3rd Generation Rights	4th Generation Rights
<p>Individual rights:</p> <p>Individual, liberal, enlightened liberties, claimed by the bourgeoisie thanks to the enlightenment and proclaimed in the American and French revolutions.</p>	<p>Social rights.</p> <p>Social freedoms.</p>	<p>Social or individual that refer to human groups or citizens of the world and not to individuals as citizens of a single State.</p> <p>Historically they are the most recent.</p>	<p>The most recent.</p> <p>They come from the development of information technology and telecommunications.</p>
<p>Freedom to (do something)</p>	<p>Freedom from (need, ignorance, hunger, disease, etc.)</p>	<p>Man is considered from various points of view or at different times: child, elderly, sick, disabled, consumer, etc..</p>	<p>The man in the "global village"</p>
<p>The State does not / cannot prevent the citizen from doing something</p>	<p>The State must be an active subject that promotes benefits for citizens, build the conditions or remove obstacles so that the</p>	<p>The State, international organizations and individuals gathered in associations have to promote the</p>	<p>The State, international organizations and individuals gathered in associations have to</p>

Freedom from the State for the citizen identified not as a subject but as an individual.	citizen can see these rights realized	fulfillment of these rights.	promote the fulfillment of these rights.
They are Freedoms in the State	<i>Freedoms (that are realized) through the State</i>	Through the State and international institutions, but also through individual or collective initiative.	Through the State and international institutions, but also through individual or collective initiative.
Example: Freedom of thought, opinion, association, expression, printing, etc.	Example: Right to work, education, health, assistance, etc.	Example: Quality of life, communication, environment, peace, etc.	Example: privacy, security (including network), etc.

Table 1 Generations of Rights. Author: Noelia Cassinelli

In the first category, we appreciate the freedoms that arose from the representatives of power for their benefit, but later reached the general public thanks to the revolutions that marked a change in the conception and application of human rights in history. Freedoms and Rights that were recognized in order to limit the capacity of the State, being almost absolute in the past, hence the need that set the precedent for the creation of subsequent rights. First-generation Rights displace the supremacy of the State, turning its citizens into individuals who are bearers of freedom. Once the State has recognized the individual needs and freedoms that guarantee their satisfaction, it is its duty to promote benefits and conditions that will later be recognized as rights. The State ceases to be a mere actor and also becomes a means for its citizens in the fulfillment of their rights and satisfaction of their basic needs. Within this context arise the primary rights that today the State must guarantee to all its nationals to ensure a dignified life, known as second generation rights. Third-generation rights now surpass states, go beyond them, that is, on an

international scale. With the emergence of international organizations, this type of rights was defined and strengthened in societies. This is how Human Rights became globalized and were focused on reaching all the people of the world in order not only to ensure their individual rights but also the groups that protect and benefit everyone. The most current, computer and telecommunications rights are closely related to the great and rapid advance of technology and its almost total impact on our lives. They are fundamental rights in the 21st century due to the immeasurable information that is currently shared in digital media, for which their protection and security became transcendental. They are rights that also impart responsibility to a group of subjects because all of them are directly involved.

2.4 Generations of Rights

Within the first generation of Human Rights, we have political and civil rights where certain freedoms are established in order to limit the control and access of States in the lives of their citizens, also in order to guarantee and protect the participation of the socially and politically areas without restriction or discrimination (Spanish Committee of UNHCR, 2017). As we have witnessed throughout the existence of humanity, innumerable abuses and excesses have been carried out by the authorities, and recently due to the system of States, by their rulers, presidents or leaders and even civilians. In the XXI century we can still observe them, that is why this type of Rights arose in order to limit these events. They began with the first independences and revolutions where the citizen now played an essential role in society and not only the monarchs, granting them common rights and freedoms within their societies. “The most important civil rights are: the right to life, the right to ideological and religious freedom, the right to free expression or the right to property. Some fundamental political rights are: the right to vote, the right to strike,

the right to associate freely to form a political party or a union, etc.” (Prestel, 2011). As we can see, they are rights focused on the private life of people, at the same time that they defend their life physically, as well as of inhuman and discriminatory treatment. The right to life goes hand in hand with the human condition and no person can be deprived of it. However, in some countries the death penalty still exists and can be applied in accordance with the laws of the State, the criminal charges and the corresponding sentence, with exceptions; as long as the crime of genocide is not invoked, for which the State will not be excused.

Within the Civil and Political Rights proclaimed in the International Pact of 1976, rights of freedom are also recognized where no one can be arbitrarily detained, there must be a prior cause and notification to the person of the reason for the arrest. As well as it is established that in the process the detainees must go to a competent and authorized authority to judge them, deciding their imprisonment or freedom. Similarly, a person detained without legal justification will have the right to reparation from the State. Another very important right also recognized is the right to free movement, and the free choice of the place of residence, however, they may present certain limitations as long as they must be applied to guarantee the protection of public order and national security, especially in cases of public health as we have been able to live today due to the virus. Outside of the physical, civil rights also encompass the ideological sphere of expression, association, and beliefs where their freedom of choice is prioritized over them and historical imposition is set aside. With them, the way is also opened to democracy, the right to choose, to be part of a political party according to their liking and to be able to oppose non-related regimes. At the same time, within this category it is recognized that "No one will be the object of arbitrary or illegal interference in his private life, family, home or correspondence, nor of illegal attacks on

his honor and reputation" (UN General Assembly, 1976). It is jointly established that no State may misinterpret any provision of the International Covenant on Civil and Political Rights or limit or suspend its application. These types of rights will be analyzed in the next chapter due to the complexity of their compliance in terms of national security but also due to the incidence of some States that violate them according to their benefit.

The second generation of Rights contemplated in the International Covenant on Economic, Social and Cultural Rights, includes socio-economic rights of the Universal Declaration of 1948 related to work, education, housing, food, among others; in other words, decent living conditions for people to develop their lives. This generation of Rights arises with the purpose of promoting equal conditions for everyone regardless of their origin, race, gender, and physical, economic and social condition so that everyone can achieve and lead a decent life through the actions and rights offered by states based on these guidelines. In the first place, the pact recognizes that all societies have the right of political self-determination to establish their model of socio-economic and cultural development; and therefore, the right to the exploitation of their natural resources to guarantee their subsistence. As well as individual and joint activities with other States for assistance and cooperation that guarantee the purposes of this pact. The pact also establishes that States must commit to guaranteeing the rights established in it for both women and men, recognizing gender equality in the fulfillment of their rights.

Likewise, the pact tries not only to guarantee the rights mentioned above but also to promote the physical and mental state of people, recognizing the basic needs in matters related to individual and collective health, through access to health systems, treatments, and disease

prevention; to education, in certain initial stages being free and mandatory, that is, its access is guaranteed for the population without exceptions; and scientific and cultural recognition through measures applied by the States that promote legal protection in its dissemination, conservation, development and maintenance. Article 11 condenses the main idea of the pact where “The States Parties to the present Pact recognize the right of every person to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to continuous improvement of the conditions of existence. The States Parties shall take appropriate measures to ensure the effectiveness of this right, recognizing for this purpose the essential importance of international cooperation based on free consent” (UN General Assembly, 1976). In short, they are a set of rights that ensure the individual development of people for their proper development within society collectively.

After the actions that the States can take to guarantee the fundamental rights of the people established in the Covenant on Economic, Social and Cultural Rights, third generation Rights also known as Peoples' or Collective Rights arise, where a higher spectrum is taken into account. Individuals are in the foreground, states in the second and the supranational in the third plane. Within this type of rights arise those that benefit humanity as a whole, the benefits are no longer individual and now they focus on the common welfare. This type of rights arose in 1948 due to growing global concerns, after two world wars, revolutions and industrializations when the planet witnessed a notable deterioration in a fairly short period of time. Therefore, it became necessary to take measures, and not only individual because these would not be enough, but collective where the action of several States can improve the current situation. Measures focused on global concerns such as peacekeeping and the application of non-coercive measures for conflict resolution; in

building peaceful and stable relationships; in caring for the environment, which due to its rapid deterioration affects people's quality of life and the life of future generations; in sustainable development to guarantee the use and enjoyment of resources without contributing to environmental wear and tear; and in the protection of personal as well as collective information in the recognition of the patrimony of humanity. (UNHCR Spanish Committee, 2017). Some examples of Third Generation Rights are mentioned above; however, they are not fixed rights because they are in constant evolution and adaptation to current priorities, which is why Fourth Generation Rights arise based on them but focused on the new needs derived from the advancement of technology.

Over the years, new rights have emerged every time and the last decades have not been the exception. With the unthinkable and gigantic advance of technology, the need arose to create norms, limitations, responsibilities and of course rights related to them. Thanks to advances including the emergence of platforms such as social media and digital storage, information transfer is taking place globally on a scale never seen before. This category of rights is added to the three generations of rights, in a fourth category because by its nature it does not fit into the previous ones. The purpose of the fourth-generation rights is to protect people from the risks derived from these new technologies, which is why it is intended to regularize access by offering it to all people without any discrimination and the right to digital security and protections is recognized for personal information. In such a wide spectrum, minimum guidelines are required for its correct operation. Currently, human rights have moved towards new horizons, one of them is digital due to the amount of information and interactions that take place in and between almost every country in the world, where States, companies, organizations and individuals they can easily access all the

personal information we share. Information so specific that it ranges from tastes, preferences, behavior trends, lifestyle, health status, physical, emotional and mental state; to addresses, place of residence, places of study or work, frequented places, telephone numbers, friends, family, among others. This is how almost all of our personal information is shared by digital means without any control or restriction, which is why the issue of human rights is fundamental in its use. The current United Nations High Commissioner for Human Rights, Michelle Bachelet, in 2019 presented a speech on Human Rights in the digital age where she recognized that the amount of information in our lives that is digitally shared is increasing, it is being stored, tracked and used. The amount is so great that the final destination is unknown, and in some cases, it is also negative.

Just as technology has brought multiple benefits to humanity in numerous fields of development and innovation, such as medicine, research, communication, transportation, automation and optimization of processes, therefore, productive changes; and of course, the development, creation, monitoring, and storage of all types of information; among others. All these benefits also have another side, the decrease in the labor requirement, decrease in the labor supply due to its replacement with machines; higher levels of pollution due to the increase in pollution caused by companies, automobiles, consumption of polluting energy, technological waste, and much more. One of the most dangerous is, because at first glance it is not noticeable, the incorrect handling of the digital information of millions of people. "The unquestionable benefits do not cancel the undeniable risks" (Bachelet, 2019). In addition to this, the internet can be considered as a black hole for norms, rights, responsibilities and limitations, however the United Nations affirms that rights exist inside and outside of it. Which becomes a complex issue because several digital platforms have witnessed discrimination, harassment, threats, and even murders,

where minorities and the most vulnerable groups are the main target. The issue of regulations becomes even more controversial. Are there enough regulations on digital platforms? Or if these exist, who establishes them and who exercises them, based on what criteria?

It is an issue of great importance because the amount of information is almost immeasurable and around almost the entire planet where not only the privacy and security of people are threatened, but also their fundamental rights of expression, freedom, knowledge, development, beliefs, among others, where they are indirectly or directly limited or affected by false news, data theft, identity theft, attacks based on opinions or personal beliefs, government content controls, unauthorized satellite tracking, and all kinds of incidents in our private lives. With the increase of technology, both legal and illegal uses are expanding and states are not left out. Every day both states and companies use the valuable information available in digital media and through artificial intelligence they can “categorize” people to later predict their decisions and actions. Valuable information that creates power and has no limitations creates great risks especially from its inappropriate use. These media are not only used to monitor and categorize us but are also politicized and create economic value by selling and sharing this information without any authorization. All this information or Big Data is of great value because it has a huge impact on who we are and our lives, so knowing it generates some control over what will happen in them. For this reason, it is necessary, in the same way in which technology advances, to advance equally with measures that protect people and grant them rights and responsibilities so as not to witness violations and limitations of them. The real question is who establishes them and ensures their fulfillment. In the United Nations, they have established multiple treaties and pacts in order to

ensure compliance, which is why fourth generation rights arise, but as it is a matter of constant evolution and progress, which is why they are not fully carried out yet.

2.5 Are Human Rights a reality?

As we could see in this chapter, human rights are rights inherent to all people created with the purpose of not only allowing people to have these basic guarantees, but also limiting the power of the authorities. In most cases, it is the state to which responsibilities are also attributed to ensure compliance with the rights of its citizens, which are applied through measures and laws established in their constitutions for the correct development of these rights. We can also appreciate the evolution of rights from the oldest societies to the present day, where more and more people were considered deserving of them and it was intended to include minorities. The changes from totalitarian societies where the State, that is, its rulers, established and applied the laws without taking into account the basic needs of ordinary people and their rights were trampled, until today. In the 21st century there are four generations of rights and they are in constant evolution with the recognition of more, where there are States, and international organizations dedicated precisely to their compliance and monitoring. To achieve this, there is people in charge of establishing measures that ensure knowledge, compliance and application of rights. Also establishing measures that can be carried out if the previous are not complied, such as compensation measures, non-coercive measures and even as a last resort the use of force, for extreme cases.

In the same way, the development of the recognition of rights can be seen through the four generations that exist today. In the first place, the essential civil rights and freedoms such as life,

own ideologies, expression, choice and property were recognized. Second, the obligations of the state with its citizens were established so that they have the satisfaction of their basic needs without discrimination, such as the right to health, education, work, housing, and food. The states must establish measures that guarantee the satisfaction of rights that allow them to develop a dignified life. Third, collective rights were established with the aim of dealing with or solving global problems such as maintaining peace, caring for the environment and sustainable development. Fourth, there are the latest recognized rights, computer and digital rights, where rights to privacy and security are recognized due to the inherent risks that the use of technology presents despite its great benefits. This is how rights have evolved and continue to do so every day. In theory, human rights are a reality, but in the next chapter we will analyze whether in practice they are also, through examples of their recognition, application and enforcement from two perspectives. The Occidental and the Oriental, and the reasons why human rights are handled in this way in the countries that will be taken as an example.

3. Chapter 3: Human Rights Culturization

3.1 Culturalization of Human Rights: Western and Eastern perspectives

This chapter will analyze how the acculturation of Human Rights has a profound impact on their perception, understanding, application and relevance. We can see how culture plays an essential role in people's actions and decisions, including the recognition of certain fundamental Human Rights and their application in the norms of societies, as well as their omission in certain cases. The analysis will be carried out from the Western perspective and the Eastern perspective through the measures applied to contain the Covid-19, where some human rights have been limited to fulfill that purpose. The analysis will be carried out defining the hierarchy of the norms and their acculturation, according to each perspective. The following chapter will properly analyze the specific measures in the specific countries. Together in the analysis of the perspectives it is important to recognize that one of the arguments against the universality of this type of rights and their fulfillment, questions whether they are purely a Western concept, therefore, they do not apply within Eastern societies. The doubt arises not only because of the vast and different cultures that exist in the world or the billions of people and their own beliefs and conceptions; but they are also demonstrated in the effectiveness and importance of their applications and monitoring in each country. The level of effectiveness in its application and monitoring not only denotes the state's commitment to human rights, but also the acceptance of these rights as its priority according to its conceptions. As we know, each culture plays a fundamental role in the development of human beings and interferes in their ideas and actions about almost every aspect of their lives, and the application of human rights is no exception.

A study published by the United Nations Educational, Scientific and Cultural Organization (UNESCO) showed the main foundations on which human rights are based. "The deep aspirations that underlie human rights correspond to concepts - the concepts of justice, integrity and dignity of the person, the absence of oppression and persecution, and participation in collective endeavors - that appear in all civilizations and in all the times." (United Nations & Inter-Parliamentary Union, 2016). However, despite the supposed belief that human rights are a Western concept, today we can see that a large number of countries have adopted them. This type of Rights has been recognized and they are practiced in different societies, regardless of their different cultures, beliefs, religions and others. This certifies that Human Rights by the UN are mostly considered universal because they are practiced without barriers, which can be considered not so relevant compared to the condition of being human. Despite the innumerable differences between societies, the simple condition of being human overshadows them and highlights the basic needs, responsibilities and rights to which we all, as people, are subject and are essential for survival and a dignified life in any corner of the world. On a larger scale, the states are in charge of the application, follow up and compliance with human rights because the competent authorities decide whether to accept them and express them in their legislation, and in this way guarantee them for their citizens. It is for this reason that international treaties establish three basic obligations for States: the duty to respect, protect and fulfill. "While the balance between these obligations or duties may vary according to the rights in question, they apply in principle to all civil and political rights and to all economic, social and cultural rights." (Nowak, Boltzmann, Klok, & Schwarz, 2005). Additionally, the States are also obliged to grant reparations in the event that a violation of these rights has occurred in their territory. However, the number of different actors that violate

human rights is increasing and the obligations of the states are not enough to be able to guarantee them in the practice.

Among the obligations, the obligation to respect establishes that the state must respect the rights of its citizens, that is, not to take actions that may interfere with their compliance. For example, these actions should not interrupt or limit the ability of people to practice their social, religious, political, educational preferences, among others. In other words, to ensure the non-interference of the state in the case of the deprivation of any fundamental right established by Human Rights through respect and acceptance, where the State remains outside interference so that its citizens carry them out. Regarding the obligation to protect, the states must guarantee the protection of their citizens from agents that violate their fundamental rights, both to prevent them and to guarantee compensation or reparation after they have occurred. Therefore, the states must create, promulgate and adopt laws that guarantee and protect the rights stipulated in the United Nations Declaration. A concrete example is the case of domestic violence, where now the state has the obligation and responsibility to adopt and carry out measures that guarantee the protection of women and children, those mainly affected by physical and psychological violence in their homes. These are measures that previously did not exist, but thanks to progress in the recognition of human rights there are more and more and are recognized in more parts of the world, to prevent cases of domestic violence through the forces of order, penalties, convictions, service to the community, among others. Just as new guidelines and follow-up guidelines have been developed in the field of domestic violence, new legal foundations have also been created in the internal laws of hundreds of countries to guarantee the protection of fundamental rights in the areas that include them.

Regarding the obligation to comply, states should create “the legal, institutional and procedural conditions that right-holders need to be able to exercise their rights and fully enjoy them” (United Nations & Inter-Parliamentary Union, 2016). In this way, within the legal body, guarantee its citizens basic rights. But what happens when the state does not do so, or even limits or restricts its citizens the enjoyment of these rights? There are certain fundamental rights, as the name implies, that cannot be ignored, limited, restricted or violated. These are absolute rights that regardless of the condition of the state should not cease to apply, such as the right to life. However, if we take into account all Human Rights, most of them are not absolute, so they are conditioned to the situation and capacities of the state, where restrictions, annulments, conditions and limitations may be applied. As mentioned above, there are limitation clauses that must be justified and will depend on the specific conditions of each state where, despite the fact that human rights are universal, they have a certain margin of freedom to apply and fulfill their obligations.

Therefore, it is necessary to understand how this margin of freedom is carried out, according to the geographical location of the countries that defines the western and eastern perspectives. Likewise, there are reservations in international treaties that are defined as “a unilateral declaration, whatever its statement or name, made by a state when signing, ratifying, accepting or approving a treaty or when adhering to it, in order to exclude or modify the legal effects of certain provisions of the treaty in their application to that state” (United Nations, 1980). There are several mechanisms that states could adopt to "justify" their actions regarding Human Rights and in the same way, despite being part of treaties, conventions, international organizations, among others, this does not ensure any compliance or following of rights. Therefore, in theory there are the foundations required to carry out the utopia of the fulfillment of Human Rights for

all the people of the world. However, in practice there are more factors as deep and different between societies such as culture, location geographic, legal order, beliefs, traditions, values, principles and others. They also establish the parameters that must be followed and fulfilled, which according to the perspective for them is completely validated or not. Therefore, it is necessary to analyze the legal system from a Western perspective and an Eastern perspective to get an idea of how its understanding of this type of laws, rights, obligations and responsibilities works according to its hierarchy of norms and basic principles.

3.2 Western: Hierarchy of norms: (Internal Law, International Law, Human Rights)

Understanding, recognition, individualism, reaction to measures

First of all, it is of the utmost importance to define the difference between the West and the East. The term West refers to more than specifically delimited territories, to cultures based on the Christian religion. Religion with great influence in Europe and that later arrived and established its bases in the territories colonized mainly by Europeans in the Americas, Oceania and part of the African continent where States based on the western culture prevailing until today were created. Western culture not only defined the religion of these emerging states, but also influenced their traditions, philosophies, beliefs, language, educational models, political models, economic models with Capitalism as their economic base. (Uriarte, Characteristics.co, 2019). It is for this reason that a very relevant factor in the present analysis of the western and eastern perspectives is culture, because it affects the prioritization, implementation, respect and fulfillment of human rights norms.

Among Western and Eastern cultures, the individualistic approach on the part of the West and the collectivist approach in the East stand out. As previously mentioned, the countries considered Western are those that have some influence from European culture, and their conceptions are oriented on the principles of freedom and independence, while eastern cultures develop in a more collective way, characterized by extensive families with a marked interdependence among their members, union, respect and obedience (Lan, 2015). In the following table we can see the main differences between cultures.

CULTURAL DIFFERENCES

WEST	EAST
<ul style="list-style-type: none"> - Individualism - Personal Success - Own Good - Personal Priority - Freedoms: Personal, of Movement, of Thought - Focus on the main object as well as the individual 	<ul style="list-style-type: none"> - Collective achievement - Common benefit - The whole - Religious basis: Confucianism, harmony, common good over the individual - Focus on the context as well as the whole

Table 2 Cultural differences. Author: Noelia Cassinelli

It is important to highlight this because the acceptance and follow-up of the standards are defined by the previously mentioned characteristics. In most western countries its legal order is based on the Kelsen pyramid to define the hierarchy of its norms. It becomes a complex issue because there are countries that have constitutional supremacy, where the State Constitution is above all norms, that is, Internal Law is above External Law, the Constitution being the main source of law. For this reason, it is necessary that in these cases, the State, its executive, normative

or legislative powers ratify the international norms so that these are valid within its territory. In other cases, it is established that only Public International Law in the case of Human Rights will prevail over Internal Law. In most western countries the Pro Being Human principle is applied, where human rights cannot be restricted and will be applied directly, taking into account that everyone as human beings must have the right to them, regardless of the place of origin. But for some states, the constitutional hierarchy defines the application of international laws within their territory, where the Constitution establishes that people will be able to enjoy human rights recognized within its regulations and the rights that exist in the treaties that are party to it. Which limits those of its nationals only to the extension of treaties to which their States are part, establishing the supremacy of the Constitution over other international laws and treaties.

It is a complex issue if the Constitution is in a higher hierarchy than that of International Treaties or if both are equal because in practice they are developed in both ways. In some cases, treaties are used as complements to Constitutional Rights, where only, if necessary, they are added to meet the needs of internal laws, and thus everything works together to ensure correct compliance with the rights of the people. For this reason, the initial principle of the Kelsen Pyramid, where the Constitution is only at the top, has already been modified by some States establishing the International Human Rights Treaties at their side (Senate of the Republic: Instituto Belisario Andrade, 2013). In what is considered the West, we have North America, Central America, South America, and Europe. Made up of around 85 States where various treaties are in force that commemorate and refer to the fundamental rights of humans. On the American side, the Charter of the Organization of American States (OAS) and the American Convention on Human Rights (also known as the Pact of San José) stand out. The principles and rights established in the Charter

are applicable to all OAS Member States, while those of the American Convention on Human Rights will only be applied within the States that comprise it. The Charter, the Convention, the American Declaration of the Rights and Duties of Man, the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, other organizations, treaties, and protocols include the rights of all generations as well as economic, social and cultural rights and ensure their regional compliance. Additionally, the OAS has adopted special treaties on issues of disappearances, torture, violence against women and children, child labor, international trafficking with minors, and illegal migration, which are the most specific problems that the region faces.

Also, in the West on the European side, we have the European Convention for the Protection of Human Rights and Fundamental Freedoms, adopted by the Council of Europe in Rome on November 4, 1950. After what happened on the continent, after being the set of two world conflicts and atrocious crimes against human rights, the Convention was created with the objective of protecting this type of rights and fundamental freedoms in the member states. Initially inspired by the UN Universal Declaration of Human Rights, over the years it has been adding rights and freedoms subsequently recognized and in the same way it has added almost all European countries to be part of it. It is important to recognize that the European Union plays a fundamental role in the development and fulfillment of human rights in Europe, together with the additional protocols, the Charter of Fundamental Rights of the EU adopted in 2000. “The Charter gathers in a single text, for the first time in the history of the European Union, the set of civil, political, economic and social rights of European citizens and people living in the territory of the Union. Although it is not part of the Treaties, it does have the same legal value as these” (Sánchez-Bayón, Campos García de Quevedo, & Fuente Lafuente, 2019). Also, the European Court of Human

Rights (ECHR or Strasbourg Court), is the institution in charge of guaranteeing compliance with the obligations to which the States undertake with the European Convention on Human Rights. The Court of Justice of the EU (CJEU or Luxembourg Court) guarantees that the rights are applied equitably in the members and is in charge of the resolution of legal conflicts between the governments, institutions and private persons of the European Union, protection necessary due to the growing increase in international actors that do not have any legislation or control whatsoever, taking it as an advantage to limit, suppress or violate rights in their favor. Another very relevant body in the achievement of human rights in Europe is the European Commission, which does not have specific competencies in the matter, but because it represents and defends the interests of the members of the EU and compliance with the Treaties, in the same way protects the application and defense of human rights in the region.

3.3 Oriental: Hierarchy of norms: (Internal Law, International Law, Human Rights)

Understanding, recognition, and collectivity

Regions of the world

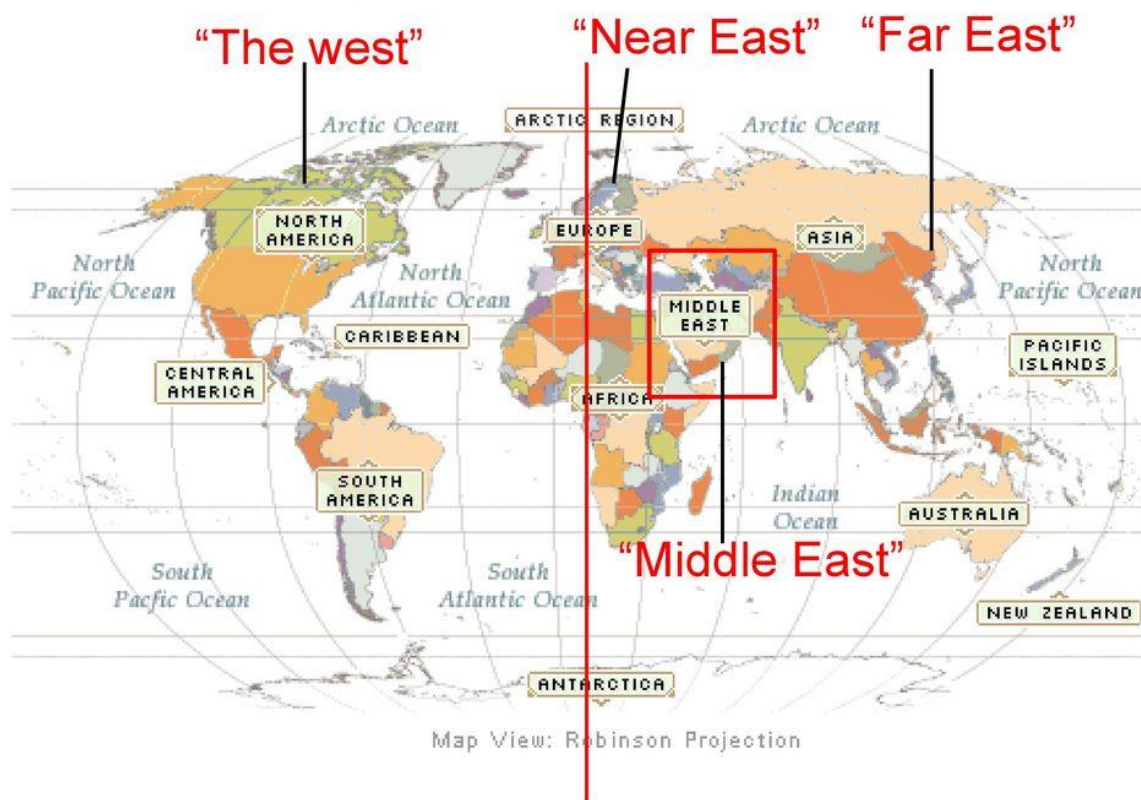


Figure 1 Regions of the world. Made by Magdalene McLaughlin

Within the Eastern or Eastern cultures, there is great diversity and complexity, dividing them into three main regions. From Asian cultures in the Far East, Arab and Muslim in the Middle East, and some African in the Closer East. Due to the cultural magnitude of the East, the analysis focuses specifically on countries of the Far East, where the "Asian Giant"² will be analyzed. It is highly relevant to mention it due to the fundamental role it plays in influencing other countries in the region. Additionally, today the People's Republic of China (PRC) has become one of the

² Barahona, V. (2014). Association of Service Officials. China: The Asian giant: <https://afese.com/img/revistas/revista58/chinagiant.pdf>. China is called the Asian giant due to its great economic growth in recent decades, which has placed it among the largest powers in the world.

largest economies on the planet, ranking among the world's leading exporters and importers due to its rapid economic growth and trade policies. Within the hierarchy of norms in the East it can be said that “Although there is no regional human rights convention, the countries of Asia and the Pacific have focused on strengthening regional cooperation, also through the OHCHR (High Commissioner for Human Rights). the United Nations for Human Rights), to promote respect for human rights” (United Nations & Inter-Parliamentary Union, 2016). One of the biggest examples of Asian regional cooperation is ASEAN or Association of Southeast Asian Nations for its acronym in English. In 2009, the Association established an Intergovernmental Commission on Human Rights and in 2012 the ASEAN Declaration of Human Rights was adopted. However, ASEAN's efforts have been hampered by criticism due to limited references to international human rights standards. Additionally, the main focus of ASEAN is national sovereignty and the economic development of the member states, therefore, human rights and their compliance are not its purpose. The People's Republic of China (PRC) is one of the Asian states that are not part of ASEAN, however they have a close commercial relationship, in ASEAN + 3.

It is also relevant to recognize that the government of the People's Republic of China operates with a socialist and authoritarian system compared to most Western countries, where the handling of laws and their application is different from that of democratic capitalist countries due to their rigor. Since 1949 with the creation of the People's Republic of China, a new legal system began to develop, establishing its first Constitution and other laws approved by the National People's Congress that would define its economic, political and social course. The structure, legal systems, functions and powers of the State, rights, obligations and responsibilities of its citizens, among other basic foundations of the creation of the State, establishing it as a socialist country by

law and in 2004 it was included in the Constitution that The State will guarantee and respect human rights (Lin, 2008). On the other hand, the term Rule of Law also refers to a system where the law can establish measures and restrictions to guarantee these rights for citizens as a whole, which may be restrictive for others, focused on the common good more than on the personal. This is because historically, the creation and application of law in China was influenced by Confucianism. "The Confucian school emphasizes lizhi, or a society ruled by li, which could be literally translated as morality, virtue, rites or rituals, or propriety (in conduct or behavior), or the combination of all of these" (Wang, 2010). Therefore, the main objective is to achieve a harmonious social order with rules of behavior that allow it to be carried out, combined with a legalistic system where good behavior and the respective compliance with the rules are promoted, but at the same time an inappropriate behavior or the Failure to comply with these standards is strongly penalized. Thanks to this, great strides have now been made in reducing crime rates by tightening the penalties for violation of laws.

However, there is the other side of the coin where despite the principles on which Chinese legislation is based, there is the notion that, although the legal structures in the West and in the PRC are similar in terms of organs and powers of the State; in the People's Republic of China, the communist party that has governed it for so many years is the one that establishes the law according to its convenience. In addition to this, the party has national support and little or no recognized opposition, its disapproval becoming increasingly difficult and its power and scope increasingly greater. "The Party can never violate the law because the will of the Party is the law" (Alcala, Gregory, & Reeves, 2018). And just as it happens internally, at the international level there are no exceptions. The party is the one that decides what Agreements, Treaties, Organizations, among

others; the PRC is part of some treaties, resulting in the rights that will be recognized for its citizens. The main legal source, as in the West, is the Constitution of the State where the rights and responsibilities of Chinese citizens are established. However, once again, reality differs from practice, where freedom of expression and of the press have been seriously violated, despite being one of the fundamental rights in its constitution, as will be detailed in the chapters below.



Figure 2 Chinese legal system. Made by Guodong Du

Within the legal system of the PRC we can also appreciate a hierarchy very similar to that of the West where the constitution has supremacy over all other laws. In the legal system of China, the Constitution of the Republic is in the first place. Second, the national laws managed by the National Congress. Third, administrative regulations, then local decrees, and finally, locally developed local administrative rules.



Figure 3 Kelsen's pyramid. Made by Mario Galin

The hierarchy of norms in China is very similar, to the ones of the West, as we can see in the Kelsen Pyramid model and in fact the Constitution in the Asian giant is the most important legal body of its nation, the basis of its action, as in countless western countries. This is why the biggest differences are not found in their legal systems, which as we can see are very similar to those of the West and the East, but on the application of the rules, how they are carried out and how they are complied within each society. In the theory there are similar foundations, where the differences are denoted is in the implementation as we will analyze in the next chapter. According to these variants Human Rights have greater scope and supremacy depending to the place where their application is located.

4. Chapter 4 Exemplification. Eastern and Western specific cases

The previous chapters lead us to the analysis of concrete and specific cases from western and eastern countries. As we were able to recognize in the previous chapter, the hierarchy of norms in the Asian giant and Western countries is very similar, but the principles with which they are practiced and applied are different. In the specific case of the measures applied to reduce, counteract or minimize the consequences of the coronavirus in different countries, it can be seen how the established restrictions may be limiting to certain Human Rights, but also how this can be considered valid or not, according to the perspective from the one that analyzes it. In 2020, governments around the world took measures to face the pandemic caused by COVID-19 and to this day they continue to take them to prevent the current development of the virus and the unleashing of variants with greater spread, severity and resistance.

Despite the biosecurity measures, which will be detailed below and the development of vaccines, approved by the WHO for mass application, the virus has not been contained entirely, and its level of complexity continues to grow with the development of variants, which continue to increase the rate of infections, but in the most of the cases thanks to the measures and resources, reducing their lethality. The University of Oxford created a government response tracker on Covid-19 (OxCGRT) where information on the measures that governments have taken to address the coronavirus is stored and analyzed. “The different policy responses are tracked from January 1, 2020, cover more than 180 countries and are coded in 23 indicators, such as school closings, travel restrictions, vaccination policy. These policies are recorded on a scale to reflect the scope of government action” (Oxford University, USA). The information collected plus the visible

effects of these measures help them and other governments to take measures considered more effective in reducing the spread of the virus.

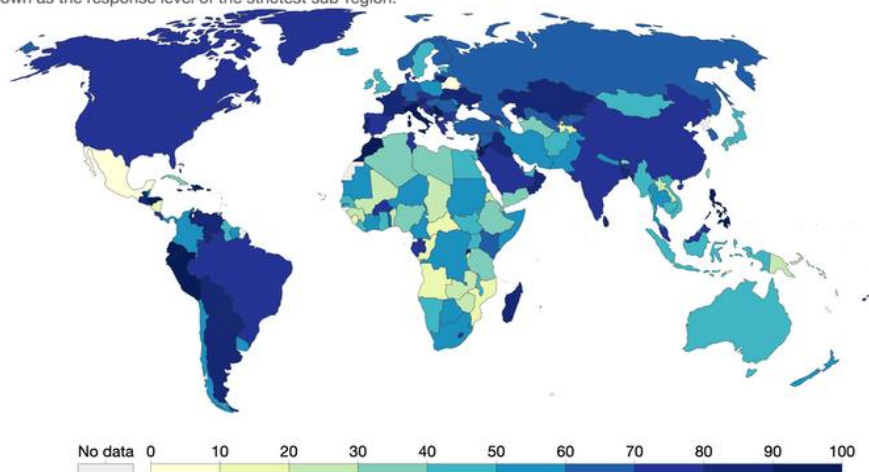
This is how some states were able to contain the first waves of contagion to face the virus with certain advantages through the combination of rigorous border closure measures, banning of flights and arrival of passengers, quarantines, containment and isolation, rapid tests, tracking and tracing of contacts. In this way, managing to flatten the growth curve of infections and thus be able to avoid saturation of the medical system while treating the manageable number of current cases. There are also states that have not been able to do so and have experienced several waves of large infections, collapsing their health systems and infrastructure. Therefore, it was concluded that "COVID-19 restrictions work to break the chain of infection, and timely and more acute restrictions have a greater effect than slower and weaker ones" (Hale, 2021). However, even if most of the results appear to indicate that the restrictions can help contain COVID 19, there are always exceptions. Especially in Latin America there have been cases where rigorous containment measures have been applied, without the expected results, which leads to the theory that in addition to the measures established by governments, the trust and compliance of their citizens is essential for the effectiveness of these measures. This brings us back to the cultural foundation, where, depending on the culture, compliance and following of restrictions and recommendations will be less or more; regardless of other economic and political factors, such as the model of government or the income level of the country.

Figure 4 Stringency Index 2020. Source: <https://theconversation.com/what-we-learned-from-tracking-every-covid-policy-in-the-world-157721>

COVID-19: Stringency Index, Mar 21, 2020

This is a composite measure based on nine response indicators including school closures, workplace closures, and travel bans, rescaled to a value from 0 to 100 (100 = strictest). If policies vary at the subnational level, the index is shown as the response level of the strictest sub-region.

Our World
in Data



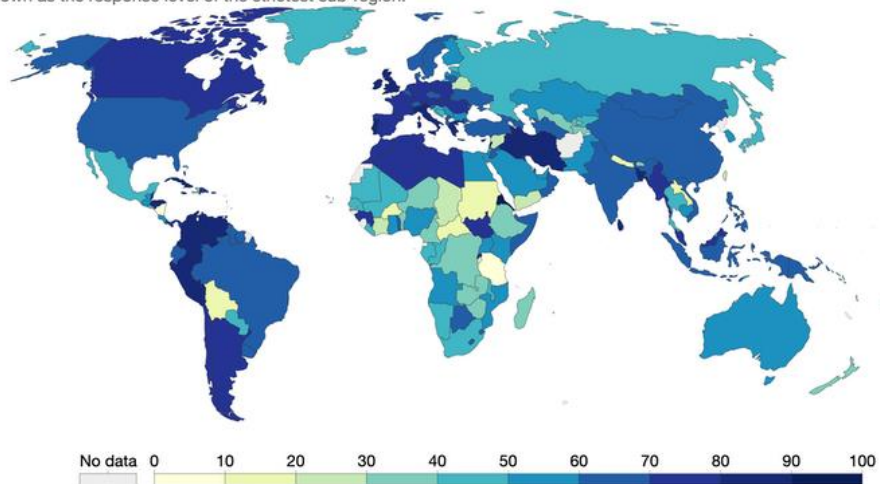
Source: Hale, Angrist, Goldszmidt, Kira, Petherick, Phillips, Webster, Cameron-Blake, Hallas, Majumdar, and Tatlow. (2021). "A global panel database of pandemic policies (Oxford COVID-19 Government Response Tracker)." *Nature Human Behaviour* – Last updated 22 March, 15:00 (London time)
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Figure 5 Stringency Index 2021. Source: <https://theconversation.com/what-we-learned-from-tracking-every-covid-policy-in-the-world-157721>

COVID-19: Stringency Index, Mar 7, 2021

This is a composite measure based on nine response indicators including school closures, workplace closures, and travel bans, rescaled to a value from 0 to 100 (100 = strictest). If policies vary at the subnational level, the index is shown as the response level of the strictest sub-region.

Our World
in Data



Source: Hale, Angrist, Goldszmidt, Kira, Petherick, Phillips, Webster, Cameron-Blake, Hallas, Majumdar, and Tatlow. (2021). "A global panel database of pandemic policies (Oxford COVID-19 Government Response Tracker)." *Nature Human Behaviour* – Last updated 22 March, 15:00 (London time)
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4.1 WESTERN CASE

4.1.1 United States: Actions taken

In the table 3 we can see the measures applied by different States of the United States, where the measures used by the majority of the States and the measures currently eradicated, such as the use of a mask, stand out. The use of the mask was initially mandatory for several States, later it was limited to only strategic or more vulnerable sectors; like education and health. Currently in no State is its use mandatory and even in some they have provided that its use cannot be forced, while in others it will depend on business policies or it will be a mere recommendation. The shift between capacity constraints and mobility constraints can also be perceived. When the maximum capacity limit was reduced a year ago, today almost all establishments in most States are working at their maximum capacity, from shopping centers, schools, restaurants, offices, etc. Regarding mobility restrictions, in 2020, the measure of staying at home was established, although it was not mandatory for all States, in the ones that was, it was applied for 1 to 3 months, but there is no longer any restriction of this type. Although the cases of infections continue to grow, the number of restrictions continues to decrease, all due to the vaccination rate. Most of the States have managed to reach 60% to 70% -80% of their vaccinated population, which has managed to eliminate restrictions and little by little return to normality. On the part of the federal government, the policies have consisted mainly of renewed recommendations, according to the resources and progress of the infections, focusing on the use of masks, vaccination and reopening of strategic places for the population. Regarding vaccination, which has been one of the main drivers for the reopening of the country, it began by prioritizing health workers and the most vulnerable people, such as the elderly. By 2021, "more than half of the US states had universal vaccine eligibility policies in early April that allowed all residents over 16 to be vaccinated" (USA Today, 2021).

Additionally, thanks to the purchasing power of the country plus the national production of vaccines, a rapid deployment and application was achieved.

Policies and measures applied in the United States to face COVID-19			
Policies	Stay at home	Most affected sectors	Mobility
<p>Initially</p> <ul style="list-style-type: none"> - Mandatory use of masks and social distancing. - Declaration of a State of Emergency. - Mobility restrictions. - Contact tracing.. <p>Currently</p> <ul style="list-style-type: none"> - Use of a mask is not mandatory. - Elimination of restrictions and reopening in all sectors. - The state of emergency has ended. - Mass vaccination: Up to 70% - 80% of the population. - Vaccinated people do not require the use of a mask or practice social distancing. - Previous restrictions become recommendations 	<p>In some States:</p> <ul style="list-style-type: none"> - Never established <p>Or</p> <p>Mandatory:</p> <ul style="list-style-type: none"> - For 1 month - For 2 months - For 3 months <p>Number of cases</p> <ul style="list-style-type: none"> - Growing - Decreasing in two states (Nebraska) & (Utah) 	<p>Most affected Sectors in all states:</p> <ul style="list-style-type: none"> - Retail sales - Recreation outside - Health <p>Others less affected:</p> <ul style="list-style-type: none"> - Restaurants - Entertainment - Cosmetology - Schools - Beaches - Parks 	<p>Initially</p> <ul style="list-style-type: none"> - Capacity restrictions - Limited meetings - Social distancing - Isolation - School closings - Closure of workplaces - Closure of public transport - Cancellation of public events - International travel restrictions <p>Currently</p> <ul style="list-style-type: none"> - Maximum capacity - No mobility restrictions

Table 3 Policies and measures applied in the US. Made by Noelia Cassinelli. Source: <https://www.usatoday.com/storytelling/coronavirus-reopening-america-map/>

4.1.2 United States: Popular reaction

Regarding the popular reaction to the state measures applied in the United States, we can see in the following mobility graph if people are leaving their homes more, or less than last week. According to US Today, until August 10, 2021, people are leaving their homes less in 51 states or territories of the country and only in one more: Washington DC, capital of the United States, or District of Columbia and from the March 15, the rate of people who have started to leave their homes has increased by 1.21% in just one week. The cause may be that since June 11, 2021, all capacity limitations have been eliminated and all institutions have reopened their doors, although companies and entertainment centers can still establish their own measures, restrictions and capacity limits in a manner individual. Additionally, DC is also one of the few places in the United States where the use of a mask is still required. On July 31, it was established that “All persons over two years of age must wear a mask indoors in DC, regardless of vaccination status” (Washington Org., 2021). Its use in closed places continues to be mandatory and without exceptions.

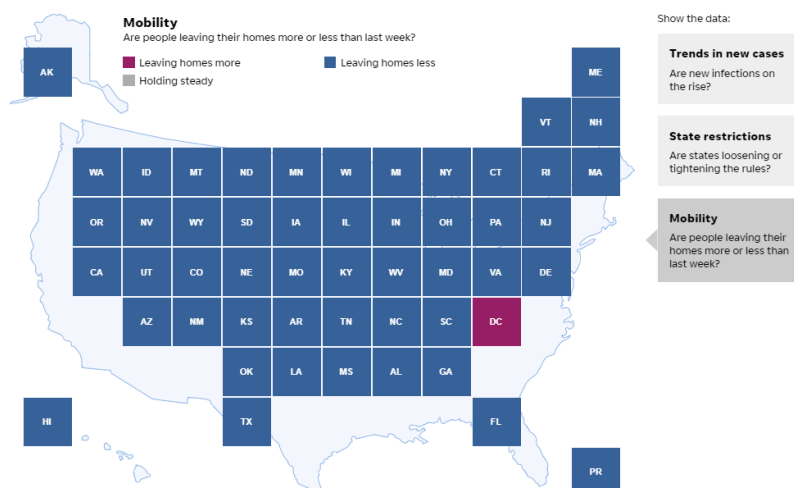
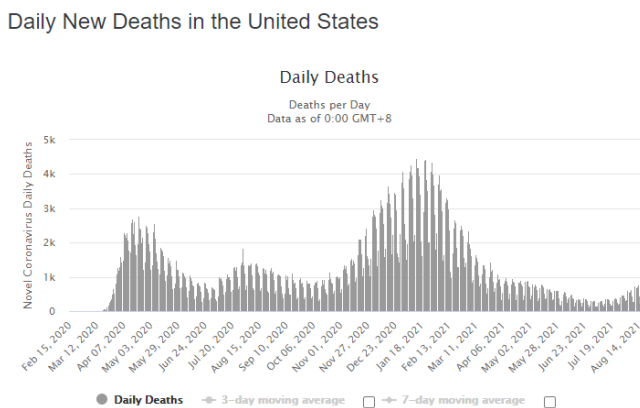


Figure 6 Mobility. Source: <https://www.usatoday.com/storytelling/coronavirus-reopening-america-map/#mobility>

As for the popular reaction, according to The Data Foundation COVID Impact Survey, which collected representative information on the behavior of Americans with mitigation measures against the virus. In 2020 it was reported that from April to June the use of masks increased from 78% to 89%. However, the application and following of other measures such as social distancing, hand washing and avoiding large crowds decreased and was considerably lower in adults aged 18 to 29 years. While the follow-up of these guidelines was maintained or greater in people over 60 years of age. (Hutchins et al., 2020).

Figure 7 Daily Deaths in the US. Source: <https://www.worldometers.info/coronavirus/country/us/>



Currently, although the cases continue to grow despite the measures applied. In most countries, the largest waves of contagion have already been overcome and the number of deaths has been reduced thanks to new resources and knowledge against the virus.

Additionally, cases have already decreased in two states and large numbers of the population have been vaccinated. Vaccination rates are a great example of popular reaction because, in addition to compliance with state measures, they denote the commitment of citizens to their well-being and the common well-being of being vaccinated to reduce the consequences of the pandemic either in them or in their societies, and the numbers also show the follow-up to the recommendations of the authorities.

According to the Centers for Disease Control and Prevention (CDC) by its name in English, which collects information and makes daily reports on the number of people who have been vaccinated against the coronavirus. "At 6 am. EDT on August 17, a total of 168,897,604 Americans had been fully vaccinated, or 50.9 percent of the nation's population, according to CDC data" (Adams, 2021). Individually, some States have managed to vaccinate almost 70% of the population, but the majority remain in percentages between 50 and 60%. The numbers and vaccination rates are in constant change and even vary according to the sources and the update of information in real time. According to Our World in Data, as of August 25, 2021, nearly 172 million people were vaccinated in the United States.

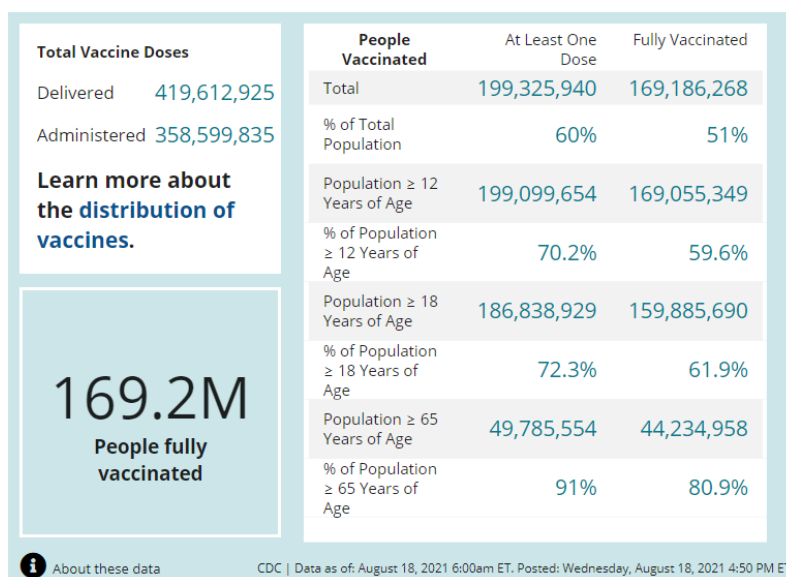
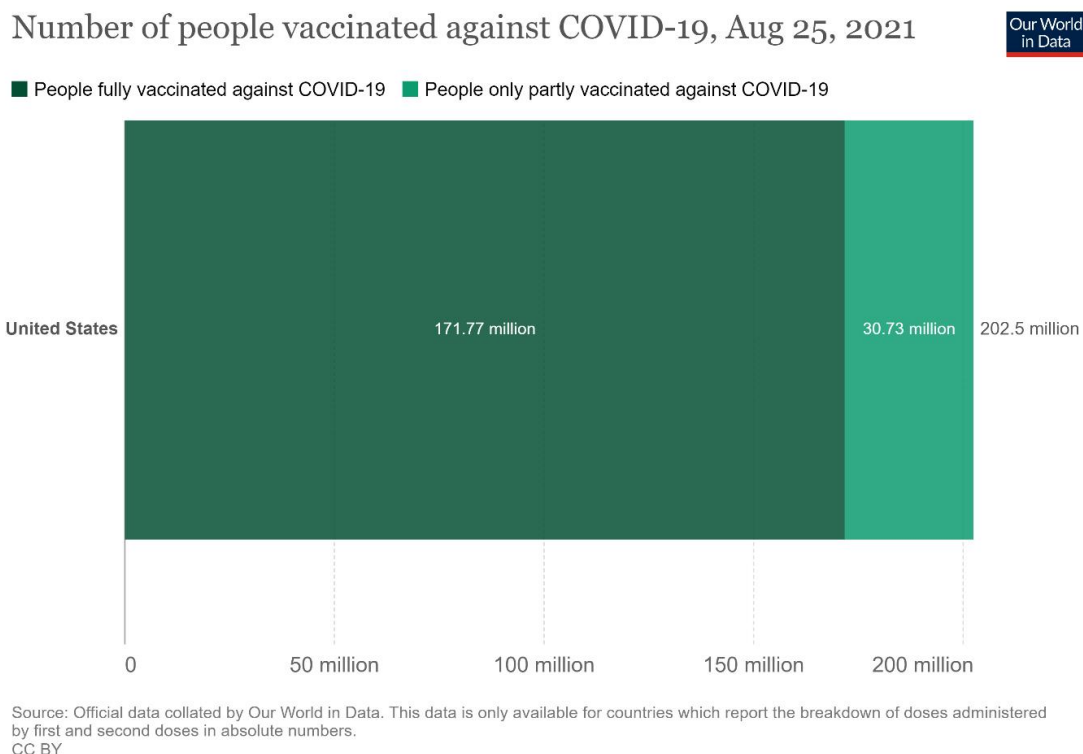


Figure 8 Total Vaccine Doses. Source: https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-total-admin-rate-total

Figure 9 Number of people vaccinated against COVID-19



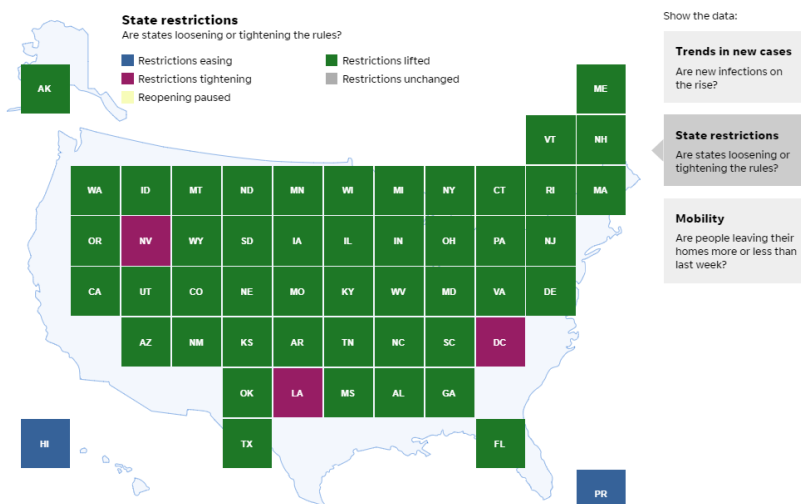
4.1.3 United States: Proportionality Analysis

In April 2020, the United States became the country most affected by the pandemic in the world, reaching the highest number of deaths caused by the virus compared to other countries. Surpassing 2000 deaths a day in New York State alone. This is due to several causes, firstly, the untimely reaction of the authorities, with the rapid spread of the virus and the absence of early containment measures, the coronavirus spread rapidly throughout all States without any control. "The United States reported its first case on January 21 and 10 days later the government took the first important measure, by decreeing a ban from entering the United States of foreigners who had visited China in the last 14 days" (BBC News Mundo, 2020). Although the measure was applied, it was not complemented by other internal measures until March, when the virus was already in

almost all states. To this was added the reaction of the former president, Donald Trump, who denied the seriousness of the new virus and assured that they had it under control, plus the initial ineffectiveness to carry out tests to confirm infections. The management and production of these tests was in the hands of a single institution that initially presented defects and their distribution was complicated.

In mid-March, the situation of the tests improved and it was possible to apply them exponentially, being able to recognize the cases more efficiently. Other factors that made the United States the new focus of global infection was the exclusive health system, where people who did not have private health insurance, could not afford the costs of the disease or even be cared for. Denying health care to millions of people in vulnerable situations, such as undocumented, jobless, homeless, penniless, with pre-existing medical conditions; that not only succumbed to the virus, but also spread it exponentially. "The pandemic exposed and exacerbated deep-seated racial and economic inequalities in health and healthcare" (Lewis, 2021). These internal factors, added to the lack of coordination of the 50 States, where certain States did apply effective measures in time, while others did not, contributed to the increase in deaths and infections. Due to this background, action was needed. The measures presented at the beginning of the chapter were the response of state and federal authorities to the virus, trying to minimize its consequences. The measures and restrictions were applied since March 2020 and in 2021 we can see how they have been decreasing and have been lifted in most of the States due to the expected results.

Figure 10 State Restrictions. Source <https://www.usatoday.com/storytelling/coronavirus-reopening-america-map/#mobility>



Analyzing the proportionality of the measures, we can highlight that the most restrictive measures applied by certain States, such as staying at home or the prohibition of international entry or exit of people from certain countries were more invasive measures. Despite this, these did not reach the rigor or duration of other measures applied in Asian countries, if they were applied because in some States greater restrictions were never applied. Additionally, the tracking, isolation and follow-up measures were inadequate. Although they were recommended by the WHO with great emphasis and the countries that applied them such as New Zealand and Thailand were more successful in containing the virus in its early stages, in the United States they were not carried out in the same way. In the case of China, as we will analyze below, strict quarantines were imposed per city. Also in other countries, it was established that the arrival of international passengers or those from the most affected countries should go to specific hotels and with all the security measures to remain in quarantine for 14 days. “Such policies would likely have been more difficult to implement in the United States, a nation that prides itself on its personal freedoms. But not doing so came at the expense of keeping the virus under control” (Lewis, 2021). Freedoms and

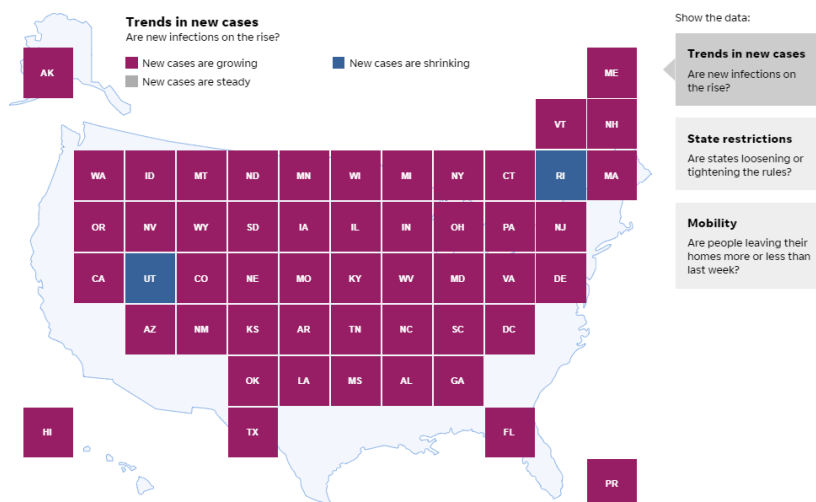
independence in Western culture, in the case of the United States, outweighed the application of coercive measures that could have reduced the number of infections and deaths caused by the virus, as demonstrated in other countries, where they have been applying more demanding measures that have contributed to a better management of the pandemic.

Despite the initial poor handling of the pandemic and the mistakes made by the authorities in underestimating the consequences of the pandemic, positive things were also achieved. A clear example of this was the development of vaccines, in less than a year the US achieved the development of 3 vaccines approved by the WHO (Pfizer, Moderna, Johnson & Johnson) that managed to reduce the effects of the virus on a large scale, saving lives and proving its efficacy against the virus. Some of the vaccines were so effective that to this day they continue to prevent infections of new variants, severe symptoms and hospitalizations.³ Regarding the analysis of the United States as a whole, it did not apply norms that were against the Human Rights of its nationals and from a moral perspective it is considered correct and just. Because the measures were not so restrictive and most of the citizens complied with them due to their low demand. However, that is not reflected in the statistics, where the US is the first country due to the number of infections, and in turn, total deaths caused by the virus. The lack of implementation of effective and timely measures are the cause of these rates and large losses. Where, as a western culture, individualism and personal good are superimposed and collective restrictions that could have prevented

³ The efficacy of the Pfizer vaccine, in initial tests, was found to be 95%. Regarding the variants, it managed to be 95% effective against the Alpha and Beta variants, and 88% effective against the Delta. The efficacy of the Moderna vaccine, in initial tests, was found to be 90% to 95%. Regarding the variants, it managed to be effective against the Alpha, Beta, Delta, Eta and Kappa variants, although it proved to be weaker against Delta than against the original virus. The effectiveness of the Johnson & Johnson vaccine, in initial tests, was found to be 72%. Regarding the variants, studies suggest that it is not effective against Delta. (Katella, 2021)

infections and deaths were not carried out. The results of the less and less rigorous or in some cases non-existent policies applied by the United States are reflected in the increasing number of cases, which places them in first place with the highest number of infections worldwide according to the information collected daily. Until August 25, 2021, the United States documented a total of 39,144,417 and 649,617 deaths, being one of the countries most affected by the virus with the highest number of cases and deaths reported (Worldometer, 2021). The high numbers are also due to the number of inhabitants, however, countries with higher population density have managed to maintain control and lower numbers, which clearly indicates that the cause has been the poor handling of the pandemic by the authorities for not establish efficient and early measures, however, the high vaccination rates are making it possible to reduce the consequences of the virus.

Figure 11 Trends in new cases. Source: <https://www.usatoday.com/storytelling/coronavirus-reopening-america-map/#mobility>



4.2 EASTERN CASE.

4.2.1 People's Republic of China: Action taken

According to information collected by Worldometers, until August 2021, the People's Republic of China is ranked # 107 worldwide for the number of infections and deaths caused by the Coronavirus. Adding a total of 94,733 cases and 4,636 reported deaths (Worldometer, 2021). As we will analyze below, several sources deny the veracity of the information shared by the Chinese government in terms of statistics and the real values of the consequences of the pandemic that started in their territory. Regarding the analysis of the measures applied by the People's Republic of China, all the provinces applied rigorous response policies during the beginning of 2020. Where despite the variation in the number of infections, they were applied with equal rigor, demonstrating the unity in the policies of all country. As of June 2020, the policies began to be localized and focused on areas with the highest contagions. For areas with fewer infections, measures such as use of a mask and tests continued, but with medium to low stringency. Managed by a system where the provincial governors had autonomy to choose their own policies and the measures that will govern their province. Among the main measures adopted are the basic ones established by the World Health Organization:

Measures taken by some provinces of the People's Republic of China

Closure of educational institutions / Closure of workplaces

Mandatory mask use / Contact tracing

Cancellation of public events

Closure of public transport

Restrictions on the number of people gathered

Requirement to stay home

Restrictions on national and international travel

Vaccination and testing policies

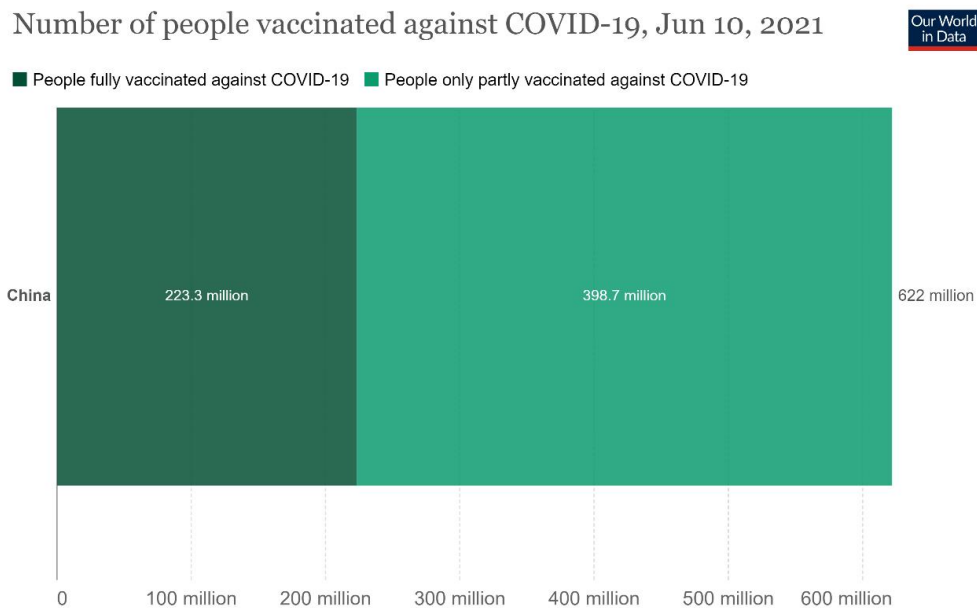
Table 4 Measures taken by some Chinese provinces. Made by: Noelia Cassinelli. Source: <https://www.bsg.ox.ac.uk/sites/default/files/2021-06/BSG-WP-2021-041.pdf>

4.2.2 People's Republic of China: Popular reaction

The popular reaction can be divided into the vaccination rates and the follow-up of the established measures and policies. In December 2020, the National Medical Products Administration (NMPA) approved the first Chinese-origin vaccine against COVID-19 called Sinopharm and began to be distributed free of charge to all citizens. Three months later, two more vaccines were developed, Sinovac and Cansino. Currently the three vaccines are distributed and applied worldwide and in the PRC a total of seven vaccines have been developed that are administered locally. An important difference with other countries and the PRC was its initial vaccination plan in 2020. Where, unlike almost all or the vast majority of countries, it proposed as the first people eligible for vaccination young people and adults between 18 and 59 years old (Zhang, and others, 2021). Because the clinical trials and tests of the vaccines had been carried out with this age group, and at the same time minimizing the risk for the elderly and with pre-existing medical conditions due to the lack of knowledge about reactions and possible adverse effects of the vaccine. In the PRC, the priority groups for vaccination were workers of direct export and import lines of food and products, workers of the health system, and workers of the public transport system. Then the vaccination groups expanded to state workers, students, supermarket workers, among others. As we can see, the initial Chinese vaccination process was quite systematic in relation to not stopping the mass production areas or the economic engine of the country, so that through vaccination it can continue with its work. Due to these vaccination guidelines, in June 2021, the PRC managed to vaccinate 622 million of its inhabitants or 43% of its population. In a month and a half, at the end of August 2021 it reaches almost 2 billion vaccines administered, which assuming that it is 2 doses per person would mean that 71% of the population

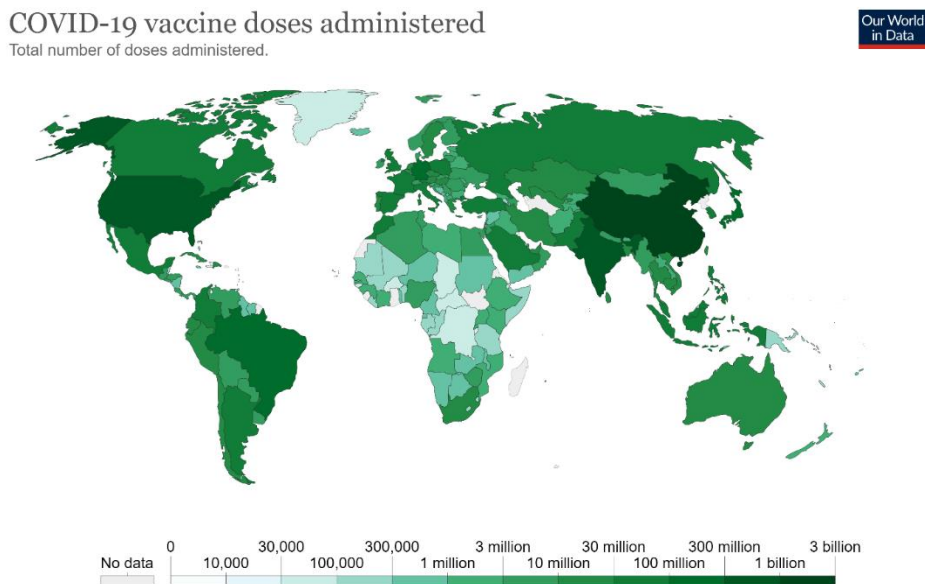
has been vaccinated (Reuters, 2021). Making it the country that leads the vaccine rates in the world.

Figure 12 Number of people vaccinated. Source: <https://ourworldindata.org/covid-vaccinations?country=CHN~USA>



Source: Official data collated by Our World in Data. This data is only available for countries which report the breakdown of doses administered by first and second doses in absolute numbers. CC BY

Figure 13 COVID 19 Vaccine doses administered. Source: <https://ourworldindata.org/covid-vaccinations?country=CHN~USA>



Source: Official data collated by Our World in Data. For vaccines that require multiple doses, each individual dose is counted. As the same person may receive more than one dose, the number of doses can be higher than the number of people in the population. CC BY

Regarding the monitoring of the established measures and policies, there is no conclusive data, only the results of the management of the pandemic according to the Chinese government, with the numbers of infections and deaths considerably low in relation to its population density and compared to other countries, denoting an alleged impeccable compliance and following of its citizens. It is very important to emphasize that the government is the only official source of information on confirmed cases, applied measures, and vaccination rates in the PRC, for which reason other sources that contradict the data provided by the Chinese government and the other side of the popular reaction of its citizens will be analyzed and taken into account in the proportionality analysis.

4.2.3 People's Republic of China: Proportionality Analysis

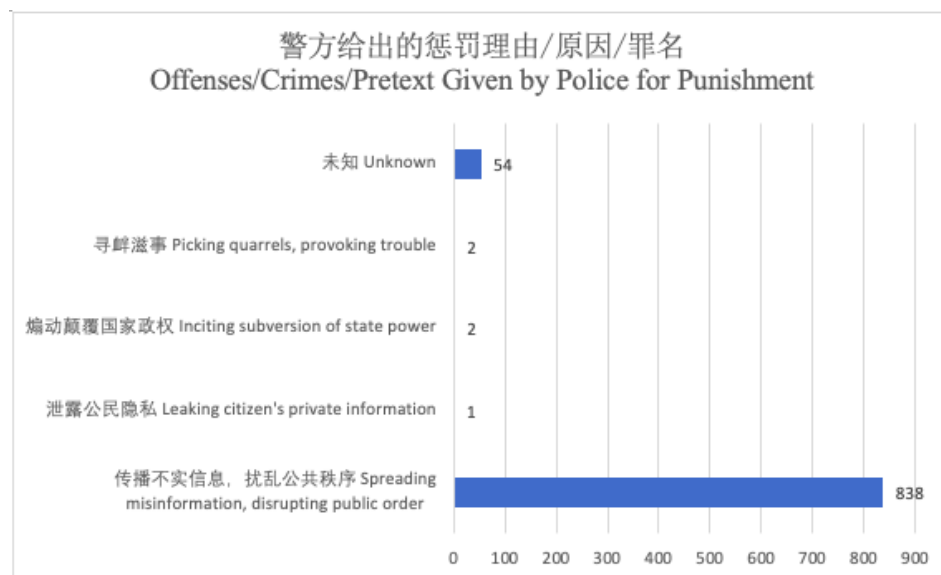
The People's Republic of China has a long history of human rights violations and according to sources outside the Chinese government, the handling of the pandemic has not been the exception. The Chinese Communist Party (CCP) with its leader Xi Jinping in recent years has allocated large amounts of resources to new technologies for the social control of its citizens. Through artificial intelligence, video surveillance cameras, biometric sensors, and the use of big data, it can monitor almost 1.4 billion people from the streets and even from their homes thanks to social networks. The measures of social control, and the years of censorship and repression, added the limitation and management of only governmental information, have managed to manipulate the image of the PRC projected to the world, as in this case its handling of the pandemic. A small example of the reprimand that exists today in the PRC was what happened with one of the most popular social networks in the world, Twitter. The government detained hundreds of users of the social network and forced them to delete Tweets with sensitive content or even delete their

accounts. With the excuse that this social network and Facebook, both of prohibited use in the Asian giant, incited the protests in Hong Kong (Wood, Feng, & McMinn, 2019). Another social network that has also been intervened by the government is WeChat, an instant messaging system used by most Chinese to communicate daily where limitations and censorship are also applied to its content. Another important point about government intervention in the lives of its citizens is mass surveillance. Currently in many countries it is being applied in conjunction with contact tracing as a measure for the early detection of Coronavirus cases, however, these measures began to be used prior to the pandemic in the PRC. It should be noted that it is important to distinguish between real information and false information created in order to generate or maintain an image within global society. The information released to the press is not always certified or real and there may be bias in it, which distorts reality. This puts into play the western and eastern conceptions because the type of information that we obtain either from one side of the globe or the other can be previously modified for some purpose. The following news and studies presented analyze the other side of the reality of the handling of the pandemic by the Chinese government.

According to Human Rights Watch, at this time people continue to be detained in the PRC, for the simple fact of having criticized or commented on their opinion on the handling of the virus by their government. One of the most relevant cases was that of Zhang Zhan, a former Chinese lawyer and journalist who was sentenced to four years in prison after being detained for seven months, after having published videos and images of her investigation in Wuhan at the beginning of the pandemic. She traveled to the city after learning about the first cases of the virus, to follow her investigation into how the outbreak arose. Zhan captured videos and images of the corridors of the hospitals at the maximum capacity due to the number of infections and the diagnoses.

Information never openly shared by her government, for which reason her four-year prison sentence was handed down by the Shanghai court at the end of 2020 for “inciting fights and causing disorder” (Human Rights Watch, 2021). Additionally, Zhan started a hunger strike to demonstrate her disagreement and her health condition has gradually deteriorated, according to her lawyer, her guards forced her to feed through nasal tubes immobilizing her limbs. (AFP, 2021). With this particular case, we can fully appreciate the restriction of freedom of expression and the violation of other fundamental rights, and even so there are many more cases.

Figure 14 Offenses, Crimes or Pretexts given by the Police for punishment



control and limitation of information shared by the media; eliminating highly relevant information, censoring it and blocking social networks; and detaining and sanctioning people who share this type of information from medical personnel to reporters. With the excuse of the pandemic, the authorities have blocked content related to the coronavirus and about the government's responses, arguing that these statements are false information to cause panic and destabilize public order. “Aggressive cyber surveillance and invasive online surveillance have played a key role in the initial government cover-up of the outbreak and hindered the flow of vital information,

Another of the actions that the Chinese government has undertaken to maintain control over what information is shared regarding the pandemic is the

contributing to significantly delaying emergency responses and the loss of life” (Chinese Human Rights Defenders, 2020). Thanks to this, the pandemic achieved a greater scope and was not controlled when it started, nor were adequate measures taken due to a lack of knowledge, allowing thousands of people to become infected and the virus to reach all countries without obstacles or drawbacks. In addition to the characteristics of the fast-spreading virus, concealment and misinformation did not allow adequate actions to be taken to contain it.

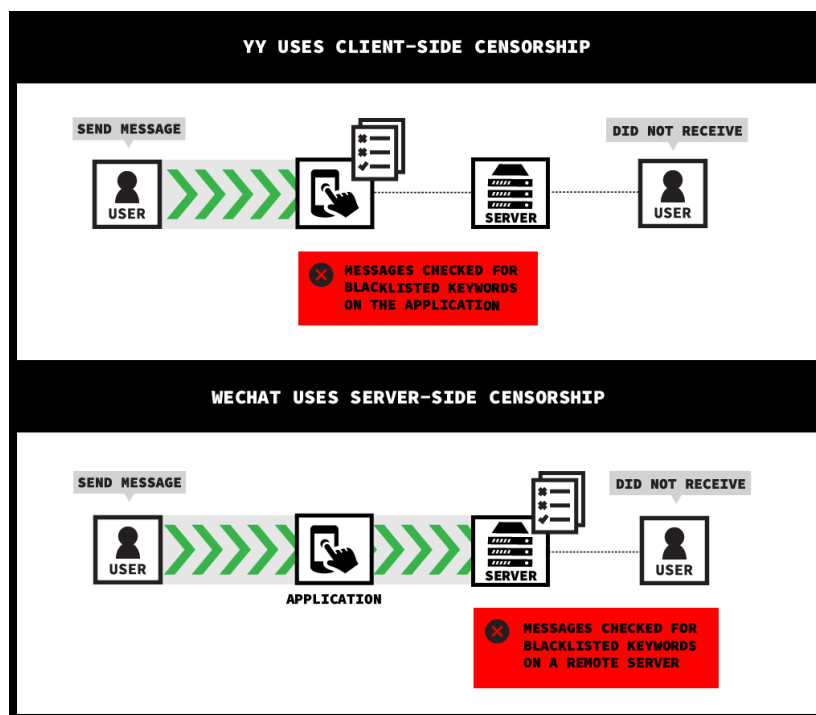
The digital repression was carried out with a sophisticated technological system, capable of censoring information instantly according to government parameters. In the social networks YY and WeChat, popularly used in the PRC, where information from doctors was initially shared warning about the emergence of a new pandemic, saturated hospitals, even the suffering of families due to the inexplicable loss of some of their members, keywords related to the virus and its origin began to be censored, and messages containing them were blocked. In illustration 15 we can see words such as unknown pneumonia from Wuhan, Seafood market in Wuhan, the place where it is suggested that the virus appeared for the first time, and variation of SARS, a closely related virus (Crete-Nishihata, Ruan, & Knockel, 2020). Messages that contained this set of words were immediately eliminated from the platform and in this way any type of conversation on the subject was restricted, which did have lethal consequences not only in the PRC but also throughout the world, not if the communication had been carried directly and appropriately. Therefore, the popular reaction of Chinese citizens has been the strict follow-up of contagion prevention measures and recommendations, but this due to fear and government intimidation with legal consequences of non-compliance plus misinformation and the concealment of information, limiting them to only having an official source to which they are forced to obey.

Figure 15 A selection of keywords added to YY's blacklist on December 31, 2019

Language	Keyword	English Translation	Date Added
Simplified Chinese	武汉不明肺炎	Unknown Wuhan pneumonia	2019-12-31
Simplified Chinese	武汉海鲜市场	Wuhan seafood market	2019-12-31
Simplified Chinese	沙士变异	SARS variation	2019-12-31
Traditional Chinese	爆發sars疫情	SARS outbreak in Wuhan	2019-12-31
Simplified Chinese	武汉卫生委员会	Wuhan Health Committee	2019-12-31
Simplified Chinese	p4病毒实验室	P4 virus lab	2019-12-31

Table 1: A selection of keywords added to YY's blacklist on December 31, 2019

Figure 16 Censorship in YY and WeChat users



The following articles will be analyzed due to the complexity of their compliance in terms of national security but also due to the incidence of some States that violate these rights for their benefit. In the news and previous studies, we can see how in some cases article 12 of the Declaration of Human Rights has been violated. The article establishes that "No one shall be the

object of arbitrary or illegal interference in his private life, his family, his home or his correspondence, nor of illegal attacks on his honor and reputation" (United Nations General Assembly, 1948). However, to maintain control of the information of the pandemic and its narrative, the Chinese government has ignored compliance with this article by intervening in the online statements and comments of its citizens, directly interfering in their private communications and additionally restricting their right of free expression. In the case of the journalist Zhan, who has not been the only one, it is also possible to show the government's non-compliance with this and several articles of Human Rights, by not allowing her to document and share her work, in addition to the statements of having been forced to feed her when she communicated her dissatisfaction with the state system through her hunger strike. According to article 19: "Everyone has the right to freedom of expression; This right includes the freedom to seek, receive and disseminate information and ideas of all kinds, regardless of borders, either orally, in writing or in printed or artistic form, or by any other procedure of your choice" (General Assembly of the United Nations, 1948). Right violated in the more than 800 documented arrests, excused as misinformation and alterations to public disorder. All these acts have been carried out, despite the irrefutable proof that the virus is a reality and that it should not have been taken lightly as we have been able to witness with the current global consequences. All this leads us to the question of how truthful is the information shared by the Chinese government taking into account this history of information concealment and penalties if a civilian decides to go against this system.

In the following illustrations, these colors and numbers in some way demonstrate the handling of the pandemic by each country, by denoting the effectiveness in handling the volume

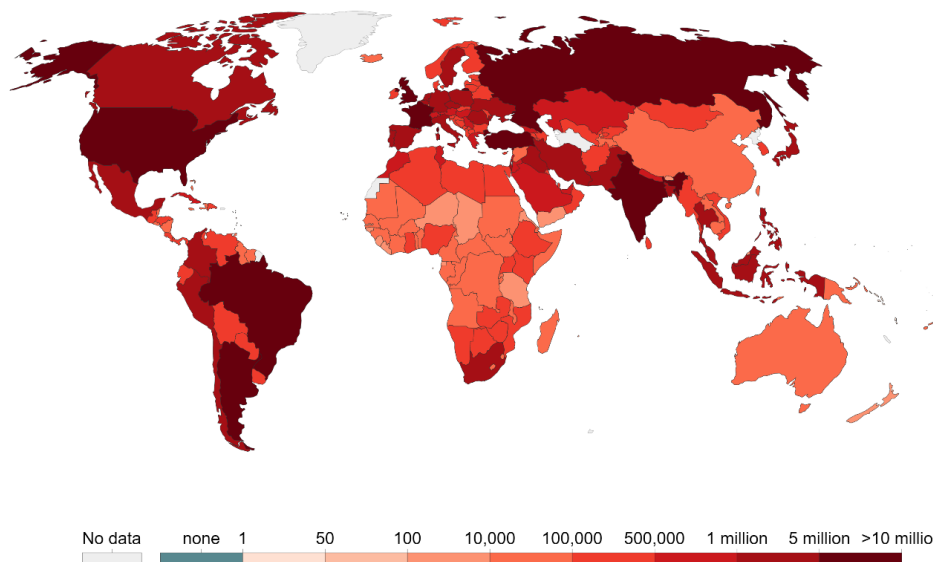
of infections, cases, and deaths. However, the information and figures shared with the world are not 100% accurate due to various reasons. As we could see in this chapter, one of those is to maintain or create a prestigious global image, of success in containing and having managed the pandemic without major consequences, and another is the lack of resources to certify this information. The coronavirus took by surprise not only one, but all the countries that to this day continue to fight against it. This is why there is no completely accurate information on the number of cases and deaths caused by the virus, either due to the collapse of medical systems and the great contagious waves where thousands of people died that were never counted, or even people who perished with an unknown cause of death. That is why these graphics show an estimate of the consequences of the pandemic or briefly what actually happened and is happening.

Figure 17 Cumulative Cases of COVID 19. Source: <https://ourworldindata.org/covid-vaccinations?country=CHN~USA>

Cumulative confirmed COVID-19 cases

The number of confirmed cases is lower than the number of actual cases; the main reason for that is limited testing.

Our World
in Data



Source: Johns Hopkins University CSSE COVID-19 Data

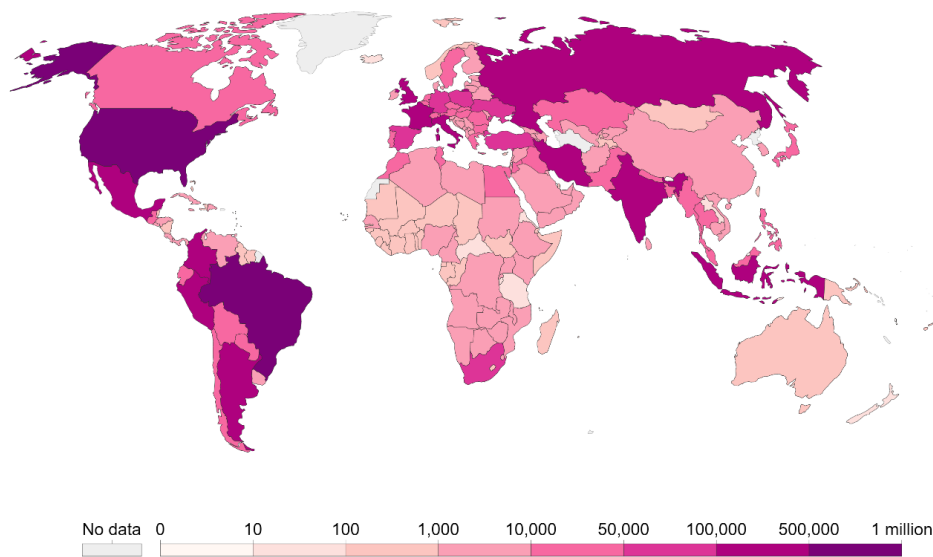
CC BY

Figure 18 Cumulative Cases of Deaths Confirmed by COVID 19. Source: <https://ourworldindata.org/covid-vaccinations?country=CHN~USA>

Cumulative confirmed COVID-19 deaths

Limited testing and challenges in the attribution of the cause of death means that the number of confirmed deaths may not be an accurate count of the true number of deaths from COVID-19.

Our World
in Data



Source: Johns Hopkins University CSSE COVID-19 Data

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5. Conclusions

To conclude this comparative analysis, we can differentiate, on one hand, The People's Republic of China, which has a long history of human rights violations and countless controversies where several countries, from a Western perspective, consider that the management of the Chinese government risks the compliance and following of the human rights of its citizens. But have we ever wondered what the Chinese people really think about the management of their government? Or what is the reality that they live every day, in contrast to ours? Currently due to the coronavirus, the opinion of many from a Western perspective consider that the measures adopted by the PRC in order to contain the infections have not been justified or proportional to the situation in their country where they are classified as aggressive and limitations of human rights. But what is the perspective of the Chinese? who live with them every day and not from the outside, like us? Are the measures applied by the government normal for them? After having lived for decades under this type of government, considered intrusive, authoritarian and strictly controlling for Westerners. Are the measures considered necessary due to the severity of the virus, for its containment and correct handling, or they also considered them an abuse of their rights?

For this, it has been necessary to analyze the issue of Human Rights and the hierarchy of norms in order to know how they develop according to the western and eastern perspective. Regarding the hierarchy of norms in the PRC, it is visibly similar to that of the West as we can see in the Kelsen Pyramid model and in fact the Constitution in the Asian giant is the most important legal body of its nation, the base of its performance as in countless western countries. This is why the biggest differences are not found in their legal systems, which as we can see are very similar to those of the West and the East, but on n the application of the rules, how they are carried out and

how they are complied within each society. In the theory there are similar foundations, where the differences are denoted is in the implementation, as according to these variants Human Rights have greater scope and supremacy depending on the place where their application is located. Regarding the issue of rights, the development of the recognition of rights can be seen through the four generations that exist today. In the first place, the essential civil rights and freedoms such as life, own ideologies, expression, choice and property were recognized. Second, the obligations of the state with its citizens are established so that they have the satisfaction of their basic needs without discrimination, such as the right to health, education, work, housing, and food. The states must establish measures that guarantee the satisfaction of rights that allow them to develop a dignified life. Third, collective rights are established with the aim of dealing with or solving global problems such as maintaining peace, caring for the environment and sustainable development. Fourth, there are the latest recognized rights, computer and digital rights, where rights to privacy and security are recognized due to the inherent risks that the use of technology presents despite its great benefits. This is how rights have evolved and continue to do so every day. In theory, human rights are a reality, but in practice they are not always. Sometimes there are violations or limitations to them, especially in exceptional cases, such as the pandemic.

According to the statistics, we can appreciate the handling of the pandemic by each country, by denoting the effectiveness in managing the volume of infections, cases and deaths. However, the information and figures shared with the world are not 100% accurate due to various reasons. As we could see in the previous chapters, one of those is to maintain or create a prestigious global image, of success in containing and having managed the pandemic without major consequences, and another is the lack of resources to certify this information. The coronavirus took by surprise

not only one, but all the countries that to this day continue to fight against it. This is why there is no completely accurate information on the number of cases and deaths caused by the virus, either due to the collapse of medical systems and the great waves where thousands of people died that were never counted, or even people who perished with an unknown cause of death. That is why these graphs show an estimate of the consequences of the pandemic or briefly what actually happened and is happening. What is evident is the mild to moderate management by the West, where if measures were applied, they were not sufficiently effective or timely to contain the virus in an adequate way, and we can see the highest number of cases and deaths in the region. However, this is also due to the Western system and culture rooted in the United States, where other principles such as personal good and freedoms prevail, which even during the pandemic were more relevant. While, in the East with the PRC, although the strong intervention of the government to carry out the measures and policies is clear, it also exceeded its limit, violating some Human Rights, to overcome its interests to keep its global image intact. Putting aside the rigorous state intervention, the PRC statistics denote a more collective perspective, and mostly proposed to sacrifice one's own good for the common good.

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