

## Ready for a Nocturnal Virus: Coronavirus, Public Policy Decisions, and Violation of Rights in Five Municipalities in Sonora, Mexico

### Preparados para un virus nocturno: coronavirus, decisiones de política pública y vulneración de derechos en cinco municipios de Sonora, México

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#### Abstract

The objective is to analyze municipal decisions made under an exceptional situation argument due to the Phase I of contagion of COVID-19 in Mexico. The methodological approach was inductive and focused on the first five municipalities that decreed a curfew in Sonora (Nacozari de García, Caborca, Naco, Santa Ana and Moctezuma). The use of semi-structured interviews and requests for public information were part of the methodology. Results describe rationality when deciding in exceptional contexts. The limitations of the study are the short time in which the interviews were carried out and the lack of public information. The originality of the investigation lies on the context in which it was carried out and in the exploration of public decisions during exceptional situations. Findings are presented in four categories: political rationality, illegality, and acceptance; the use of known resources; decoupling, argument of urgency and symbolic communication; lack of evidence and the use of legitimate support.

**Keywords:** implementation; public policy; municipality; coronavirus; Sonora.

#### Resumen

El objetivo es analizar las decisiones municipales tomadas bajo el argumento de que se realizan por causa de una situación excepcional: la Fase I del contagio de COVID-19 en México. La aproximación metodológica fue inductiva y focalizada en los cinco primeros municipios que decretaron toque de queda en Sonora (Nacozari de García, Caborca, Naco, Santa Ana y Moctezuma). Se emplearon entrevistas semiestructuradas y solicitudes de información pública. El resultado describe la racionalidad al decidir en contextos excepcionales. Las limitaciones del estudio son el corto tiempo en que las entrevistas se realizaron y la carencia de información pública. La originalidad de la investigación es el contexto en que se realizó, así como la exploración de las decisiones públicas en situación excepcional. Los hallazgos se presentan en cuatro categorías: racionalidad política, ilegalidad y aceptación; empleo de recursos conocidos; desvinculación, argumento de urgencia y comunicación simbólica; y falta de evidencia y el uso del respaldo legítimo.

**Palabras clave:** implementación; política pública; municipio; coronavirus; Sonora.

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## Introduction

At the end of 2019, a highly contagious virus, previously unknown, belonging to the *Coronaviridae* family, and causing the COVID-19 disease, was detected in Asia. The spread of this virus had an almost immediate impact on the social, economic and political orders in all countries. In view of the increase in the number of infections and deaths, the governments of the world opted to apply unprecedented measures, translated, in its most dramatic aspect, into *social distancing*: people were asked (sometimes ordered) not to leave their homes. This request was intended to limit the risk of contracting or transmitting the virus. In the American continent its effects would start to be felt at the beginning of 2020. Social distancing became widespread as a common measure. Mexico was no exception.

From what happened in this country, this study highlights what was implemented by five municipal governments (Nacozari de García, Caborca, Naco, Santa Ana, and Moctezuma) in Sonora, a state in northern Mexico that borders Arizona, United States. Under the umbrella of the information related to the spread of the coronavirus and adapting social distancing, they declared a night *curfew* to restrict the mobility of people. The aim of this article is to analyze the decisions made by the municipal government under the argument of an exceptional situation due to a health emergency during Phase 1 of the coronavirus infection in Mexico.

When it was decided to impose the curfews—from March 20 to 22, 2020—four cases of infection had been confirmed in Sonora<sup>1</sup> (none of them in the municipalities that implemented the decision): 1) a 72-year-old person residing in the municipality of Hermosillo, report of March 16; 2) a 44-year-old person also residing in Hermosillo, report of March 18; 3) a 30-year-old person residing in Navojoa, report of March 21; and 4) a 22-year-old person residing in Guaymas, report of March 22. The cases in Sonora occurred three weeks after the first case was detected in the country, and when it was decided to impose the curfews, only cases of people infected abroad were occurring here, a situation that became known as Phase 1. On March 23, after the first weekend of the decision to implement the ban, the World Health Organization declared that Phase 2 of the epidemic had begun in Mexico, that is, cases of local infection, not acquired abroad, would start to appear. The next day, the federal government recognized this situation. On March 25, the Government of the State of Sonora decreed extraordinary measures.

What was implemented in the five municipalities before there were any guidelines shared with the state or federal government raises the following question: in the face of a crisis, how do local governments decide? That is, what elements do they consider or what is the prevailing rationality in their decision making? The analysis of what was observed in the municipalities of Nacozari de García, Caborca, Naco, Santa Ana, and Moctezuma is relevant, since it allows to inductively characterize the way in which decisions are managed in a context of emergency or exception in some local governments.

<sup>1</sup> As an additional reference, three months later the figure was around 5,000 infections and 400 deaths, according to information from the Secretary of Health of the State of Sonora systematized by Luis Armando Moreno. It is available at [www.luisarmandomoreno.com](http://www.luisarmandomoreno.com)

This text is developed in four sections following the introduction. In the first of these, the required sensitizing concepts are presented as a theoretical, legal and referential framework. Then, a methodological note is included that refers to the way in which the empirical approach was carried out. The empirical, in five municipal cases, is described in two stages: a general analysis that establishes the coincidences and differences of the cases and a particular analysis that defines the details of each case. Finally, findings and conclusions are presented.

## Sensitizing Concepts

The approach to cases is built on concepts that serve as a theoretical, legal and referential framework, such as legal certainty, state of emergency, freedom of movement, and the right to health protection, concepts that are considered here as public policy instruments.

### On Legal Certainty

Government activity consists of the sum of decisions and actions carried out by persons vested with powers recognized by the public power. In other words, these are decisions with extraordinary impact made by ordinary people. What makes them extraordinary is that they are endowed with public power, which is defined as “the capacity of the state to impose its will with, without and even against the concurrent will of its recipients, in order to achieve its aims and objectives.”<sup>2</sup>

The strength of the decision that comes from the public power must offer certainty in two aspects: its compliance and its limit. Certainty in terms of compliance refers to the fact that, from the top of the normative framework, “the approved rules [...] will be applied without exception as many times as the assumptions that they foresee themselves occur.”<sup>3</sup> Regarding its limit, certainty considers clarity in the terms in which an act of authority will be put into practice: “the act of authority occurs when it meets the requirements established by the legal order, and its validity is conditioned by the compliance with those requirements to which the state’s activity must be subject in order to affect some right of the governed.”<sup>4</sup> The absence of certainty with respect to its compliance and its limits weakens the foundations of the rule of law and opens up spaces for the discretionary exercise of power.

Life in Mexico, from its legal architecture, places the human being in a priority position. This normative framework is due “to the need to establish a re-

<sup>2</sup> “la capacidad del Estado para imponer su voluntad con, sin y aun contra la voluntad concurrente de sus destinatarios, para lograr sus fines y objetivos” (Fernández Ruiz, 2000, p. 1015).

<sup>3</sup> “las normas aprobadas [...] se aplicarán sin excepción tantas veces como se produzcan los supuestos que ellas mismas prevean” (Valadés, 2002, p. 220).

<sup>4</sup> “el acto de autoridad se produce al cumplir con los requisitos establecidos por el orden jurídico, y su validez está condicionada por el cumplimiento de esos requisitos a que debe sujetarse la actividad estatal para afectar algún derecho del gobernado” (Islas Montes, 2009, p. 100).

gime in which the minimum human prerogatives have the highest legal value.”<sup>5</sup> Hence, the discretionary exercise of power must be avoided.

Of the two aspects cited on certainty, that of the limit of acts of authority is the one that is of interest in this document. This limit is expressed in the observance of the so-called principle of legality—“a profound change in legal thinking”<sup>6</sup>—, verifiable in a “rule of jurisdiction and rule of control, it says who must do it and how it must be done,”<sup>7</sup> since “the law constitutes the limit of administration. By virtue of this principle, personal powers are no longer accepted; all power comes of the law, all authority that can be exercised is that of the law; only ‘in the name of the law’ can obedience be demanded.”<sup>8</sup>

The principle of legality, in addition to opposing arbitrary decisions, is opposed to the “irrational adherence to the law, that is [...] [avoiding that] it is understood that the laws that comprise it are simple mathematical equations whose result must be exact.”<sup>9</sup> This should be clarified, because although the adoption of a public policy perspective has led to reflections on the future of the aforementioned principle (Estévez Araujo, 1990; Ferrajoli, 2006), its consideration does not imply the impossibility of adapting the government’s work when it is faced with the target population of the government’s decision (Lipsky, 2018).

In contemporary states, a characteristic practice contributing to the principle of legality (and, therefore, to legal certainty as to its limit) is the publication of acts of authority in a printed medium (it is called a newspaper, bulletin, or gazette) with maximum publicity and in which the possibilities of changing the terms in which the act of authority was structured are minimal.

In Mexico, the publication is made through the *Diario Oficial de la Federación* (DOF) (*Official Journal of the Federation*), which is

the organ of the Constitutional Government of the United Mexican States, of a permanent nature and public interest, whose function is to publish in the national territory, the laws, decrees, regulations, agreements, circulars, orders and other acts, issued by the Powers of the Federation and the Autonomous Constitutional Bodies, in their respective areas of competence, so that they are duly applied and observed.<sup>10</sup>

In Sonora the same is done in the *Boletín Oficial* (*Official Bulletin*).

<sup>5</sup> “a la necesidad de establecer un régimen en el que las prerrogativas mínimas humanas tengan el más alto valor jurídico” (Kubli García, 2010, p. 851).

<sup>6</sup> “un profundo cambio en el pensamiento jurídico” (García Ricci, 2011, p. 11).

<sup>7</sup> “regla de competencia y regla de control, dice quién debe hacerlo y cómo debe hacerlo” (Islas Montes, 2009, p.101).

<sup>8</sup> “la ley constituye el límite de la administración. En virtud de este principio no se aceptan ya poderes personales; todo el poder es de la ley, toda la autoridad que puede ejercitarse es la propia de la ley; solo ‘en nombre de la ley’ se puede exigir obediencia” (López Olivera, 2005, p. 181).

<sup>9</sup> “irrational apego a la ley, es decir [...] [evitando que] se entienda que las leyes que lo conforman son simples ecuaciones matemáticas cuyo resultado debe ser exacto” (Islas Montes, 2009, p. 102).

<sup>10</sup> El órgano del Gobierno Constitucional de los Estados Unidos Mexicanos, de carácter permanente e interés público, cuya función consiste en publicar en el territorio nacional, las leyes, decretos, reglamentos, acuerdos, circulares, órdenes y demás actos, expedidos por los Poderes de la Federación y los Órganos Constitucionales Autónomos, en sus respectivos ámbitos de competencia, a fin de que éstos sean aplicados y observados debidamente (Cámara de Diputados, 2019a, article 2).

## On the State of Emergency, Freedom of Movement, and the Right to Health Protection

Under the umbrella of the information related to the spread of the coronavirus, five municipalities in the border state of Sonora announced a curfew (*toque de queda*), an expression that refers to the sound (blowing, ringing) of a bugle, trumpet or bell as a signal to the inhabitants of a locality to wait (stay) in their homes for security reasons.

The term *toque de queda* is not used in legal literature. It must be understood in the context, that is, as a measure in an extraordinary situation, out of the ordinary, similar to a *state of emergency*.

A state of emergency-or *suspension of guarantees* or *state of siege*, as it is also found in the legal literature-is, strictly speaking, a term used to indicate “an exceptional legal regime to which a territorial community is temporarily subjected, in consideration of a state of danger to public order.”<sup>11</sup> The difference between this and what was observed in the cases to be studied is, as will be argued, that the extraordinary situation observed was not subject to any legal regime; it depended on the will of those who made the decision and its implementers. Now, locating what has been observed through the concept of a state of exception (or any other equivalent denomination), while providing indications for its clarification, has its own limitations. De la Cueva (2006) points out that the term state of emergency “has played a dirty trick on the jurists, since a subject that might seem simple was complicated by the force of the facts [...] [when] [...] the reality and the needs of Mexico and the ideal of freedom [were confronted].”<sup>12</sup>

Even with this limitation, the importance of the matter must be considered: every constitutional state “has as its foundation respect for individual freedoms, for the rights of persons, which are anterior and superior to the state itself, since its philosophy recognizes that the state exists for persons and not individuals for the state.”<sup>13</sup> This is how any government action that restricts or limits individual freedoms should be understood. Whether in rural areas or in small towns, diminishing freedoms is no small matter.

In the international order, states of emergency require compliance with minimum requirements derived from article 4 of the International Covenant on Civil and Political Rights and article 27 of the American Convention on Human Rights. These minimum requirements are: 1) to officially proclaim the state of emergency; 2) to attend to the principle of necessity and proportionality, that is, that the measure be justified when there is no other alternative; 3) to justify the decision and the specific measures to be adopted; 4) that the measures

<sup>11</sup> “un régimen jurídico excepcional al cual una comunidad territorial es sometida temporalmente, en consideración a un estado de peligro para el orden público” (Pelayo Moller, 2016, p. 462).

<sup>12</sup> “ha jugado una mala pasada a los juristas, pues un tema que pudiera parecer sencillo, se complicó por la fuerza de los hechos [...] [al enfrentarse] [...] la realidad y las necesidades mexicanas y el ideal de libertad” (p. 4).

<sup>13</sup> “tiene como fundamento el respeto de las libertades individuales, a los derechos de las personas, que son anteriores y superiores al Estado mismo, pues su filosofía reconoce que el Estado existe para las personas y no los individuos para el Estado” (Martínez Báez, 2006, pp. 4-5).



to be implemented are non-discriminatory; and 5) that the measures must be temporary, that is, they will subsist only as long as the situation that generated them continues. This international reference would help to standardize a criterion on the steps to be taken at the national level.<sup>14</sup>

In the face of the state of emergency for the cases described here, two normative paths are followed: freedom of movement and the right to health protection. Freedom of transit is found in article 11 of the Constitution. It consists of four freedoms: to enter the country, to leave it, to travel through its territory, and to change residence, without the need for a security letter, passport, safe-conduct, or other similar requirements. The exceptions are set out in the constitutional text itself: the exercise of the powers of the judicial authority, in cases of civil and criminal liability, and of the administrative authorities, in matters of emigration, immigration and general health.

A curfew, like those publicized in the municipalities under study, without constituting a state of emergency or siege in the strict sense, limits this freedom of movement. On the other hand, the right to health protection is established in the Mexican legal system, in article 4 of the Constitution. The General Health Law (LGS) is regulatory of this order. The original reason given to justify the curfew is to avoid putting the health of the population at risk.

The LGS states that health safety measures-which include, among others, isolation, quarantine, suspension of work or services-may be ordered or executed by the Secretary of Health and, where appropriate, by the governments of the states (Cámara de Diputados, 2019b, article 403). This same article includes municipalities, whose participation would be subordinated “to the agreements they enter into with the governments of the respective states.”<sup>15</sup>

In the previous paragraph, isolation, quarantine, suspension of work or services are highlighted as being the actions most similar to curfews. The measures, following this order, can be taken if the formalities are met: both isolation and quarantine must be ordered in writing by the competent authority and following a medical opinion (Cámara de Diputados, 2019b, articles 405 and 406), the suspension of work or services must be ordered by the health authority (Cámara de Diputados, 2019b, article 412), and must last for the time necessary to correct the irregularities that cause the work or service to endanger people’s health (Cámara de Diputados, 2019b, article 411).

At the local level, the Ley de Salud del Estado de Sonora (Health Law of the State of Sonora) (LSES) replicates in general terms what the LGS states. Chapter I of title fifteen-which will be referred to by Moctezuma City Council-is equivalent to the health safety measures indicated in the LGS. In both, isolation and quarantine must be ordered in writing by the competent authority after a medical opinion (Congreso del Estado Libre y Soberano de Sonora [Congress of the Free and Sovereign State of Sonora] [CLSS], 2019, articles 274 and 275)

<sup>14</sup> The international reference serves as a comprehensive framework for understanding considerations related to states of emergency. This article does not report on experiences in other countries because each case would have its own legal framework. The legal references mentioned here are applicable to municipalities in Mexico.

<sup>15</sup> “a los convenios que celebren con los gobiernos de las respectivas entidades federativas”.

and the suspension of work or services must be ordered by the health authority (CLSS, 2019, article 281).

It should be noted that the LSES (CLSS, 2019, article 18) restricts the jurisdiction of the municipalities to: 1) the health control of markets, cemeteries, and slaughter houses, among others; 2) establish and operate care and health institutions within their jurisdiction; 3) assume the administration of care and health facilities that, by virtue of an agreement, the state and federal governments transfer to them; 4) formulate and develop municipal health programs; 5) monitor and enforce, within their sphere of competence, the General Health Law and others that may be necessary.

## Methodological Note

The preventive and reactive measures that governments of different orders took to face the pandemic produced limitations for the development of this investigation. Notably, the closing of offices or remote work with different hours reduced the number of people available to explain experiences and forced that the interviews were conducted by telephone, which was not easy either, since the telephones were not attended on the first attempt and the emails were not answered. The fulfillment of the objective of the investigation required not to delay the approach of the public servants related to the decision. Even in the face of these limitations, it was decided to carry out the study because it provides knowledge and documents the experiences that may serve as a reference for future cases.

Because they were the first in the country to be known, the first five cases identified in Sonora where a curfew had been issued coinciding in time with Phase 1 of the pandemic in Mexico were selected.

In addition to the documentary exploration, an information request was made through the National Transparency Platform (request 00360020) in order to ask the Secretary of Health of the State of Sonora for the documentary support of the communication it would have had with the case studies. The response included: 1) the information sheet from the Health Jurisdiction Number 3 on the activities carried out in the municipality of Naco; 2) the information sheet from the Health Jurisdiction Number 3 on the activities carried out in the municipality of Santa Ana; 3) a simple copy of the Caborca city council minutes of the meeting held on May 19, 2020; 4) a simple copy of the certificate of incorporation of the Municipal Contingency Coordination Committee in Moctezuma; 5) a simple copy of the certificate of incorporation of the Municipal Contingency Coordination Committee in Nacozeni de García.

The information that the municipal administrations had published in three areas or spaces was explored: 1) the official web pages, that is, those that were recognized as public based on their gob.mx extension; 2) the pages on the Facebook platform and which, due to their content, made us think that they were being managed by personnel assigned to the city council; and 3) the

publications, when possible, within accounts on the Twitter platform under the name of each municipality, that is, not personal accounts.

As for the semi-structured interviews, the offices of each city council were contacted by telephone. As a consequence of the preventive and reactive measures, the five mayors could not be contacted directly. A request was made to talk with a public servant who had witnessed the decision. Interviews were held from March 23 to 27, 2020, with two municipal presidents (Javier Moreno Dávila from Santa Ana and Adriana Sepúlveda Rodríguez from Moctezuma), a secretary of the city council (Joel Roberto Madrid Hernández from Caborca), and a person in charge of social communication (Evodio Cabrera Andrade from Naco). During the period of the interviews, the telephone of the municipality of Nacozari de García, as well as the cell phone of the mayor María Juana Romero, were out of service. The criterion for interviewing was to know the first versions of witnesses of the deliberation on decision making, considering predictable that the authority could change the narrative from the development of the measure and the knowledge of the implications.<sup>16</sup> For each case presented, a brief characterization of the municipal territory is offered so that its geographic and population situation can be appreciated.

## Ready for a Nocturnal Virus: An Empirical Approach to the Five Cases

The coronavirus is not nocturnal. Like any other virus, it does not spread at a particular time. The measures taken by the municipal administrations studied, however, seem to be based on this idea: the virus spreads at night or on weekends.

The information related to the curfew decision could only be known through social networks and the media. The website of the State Secretary of Health ([www.saludsonora.gob.mx](http://www.saludsonora.gob.mx)), for example, had not provided any special or prominent space to report on the situation, while the website of the government of the state ([www.sonora.gob.mx](http://www.sonora.gob.mx)) had enabled a link under the heading “COVID-19 Updates,” where a video of the, until then, most recent press conference could be viewed. The rest of the meetings with the media could be consulted after searching the files of the page. In short, the state information was not in an accessible layout or format. Municipal information was also not in any special format. It could only be accessed directly through each official page or, most of the time, through social networks.

On March 16, the head of the state executive instructed the implementation of a strategy called “Stay at Home” (as referred to by the Subsecretaría de Servicios de Salud de Sonora [Sonora Undersecretary of Health Services], 2020),

<sup>16</sup> On May 12, 2020, there were 21 municipal administrations that applied similar measures to curfews in Sonora. The State Commission on Human Rights completed a process of conciliation and mediation with the authorities to rescind the measures. Since the measures were considered to be outside legality, as expressed in this text, a change in the narrative around the decision was to be expected.



consisting of the following measures: 1) the cancellation of classes at all levels of education; 2) the cessation of all non-essential meetings (in particular social gatherings, collective or family purchases) with the recommendation that those held should have no more than ten participants; 3) the closure of non-essential businesses, including party halls, bars, clubs, gyms, casinos, and movie theaters; 4) the request to civil society and religious associations to suspend their meetings; 5) the announcement that non-essential public services would be offered online; 6) the request to restrict visits to hospitals; 7) the identification of health sector tasks that are considered essential.

This agreement was published in the *Boletín Oficial del Estado de Sonora* (Gobierno del Estado de Sonora, 2020b) the following day, March 17. The agreement consists of three sections. The A relates to the measures that will have to be taken by primary, secondary and higher education schools in all their types and modalities, as well as any instance that is part of the state educational system. The B consists of instructions for heads of direct and parastatal public administration. It instructs the other branches of government and other autonomous entities and bodies to take the prescribed measures to prevent the spread of the coronavirus. The C points out, without developing it, “the comprehensive ‘Stay at Home’ strategy.” It instructs “the essential sectors of the economy, the sectors of the maquiladora industry, commerce, and other industrial branches” to attend to it. To this end, the Secretaries of Economy and Labor would establish contact with the aforementioned sectors and branches of industry. In the March 17 agreement, nothing is said about the municipalities.

The First Extraordinary Meeting of the State Health Council was held on March 19. There, it was agreed, among other aspects, to “raise to a level of agreement the ‘Social Distance’ strategy that includes the Stay at Home Contingency Plan, which establishes prevention measures for the general population.”<sup>17</sup>

On March 25, the decree issued by the head of the state executive was published, announcing the Declaration of Emergency and Epidemiological Health Contingency (Gobierno del Estado de Sonora, 2020a) and publishing other measures described as urgent to prevent, combat and eradicate the existence and transmission of COVID-19. The first paragraph of the third article indicates as “a priority [...] to preserve life and health, based on the indication and execution of the comprehensive ‘Stay at Home’ and ‘Social Distancing’ strategy’.”<sup>18</sup> Part of the publication states that there are economic measures to be developed. It is not until the eighteenth article that the following statement is found:

The 72 municipalities of the State of Sonora are hereby requested to observe the present measures within their respective territorial boundaries and in accordance with their legal powers, without restricting the

<sup>17</sup> “elevar a nivel de acuerdo la estrategia ‘Distanciamiento Social’ que incluye el Plan de Contingencia Quédate en Casa, que establece medidas de prevención a la población en general” (Gobierno del Estado de Sonora, 2020a, recital XXVI).

<sup>18</sup> “prioridad [...] preservar la vida y la salud, a partir de la indicación y ejecución de la estrategia integral ‘Quédate en Casa’ y ‘Distanciamiento Social’.”

individual guarantees contemplated in the Political Constitution of the United Mexican States and of [sic] the Political Constitution of the State of Sonora, since this is an epidemiological health contingency.<sup>19</sup>

When the agreement was published in the *Boletín Oficial* (Gobierno del Estado de Sonora, 2020a), four to five days had passed since the municipalities published their decision to apply the curfew; in other words, it had already been implemented one weekend earlier. Table 1 presents the main characteristics of the measures adopted by the municipalities.

Table 1. *Characteristics of the Curfew in Five Municipalities in Sonora, 2020*

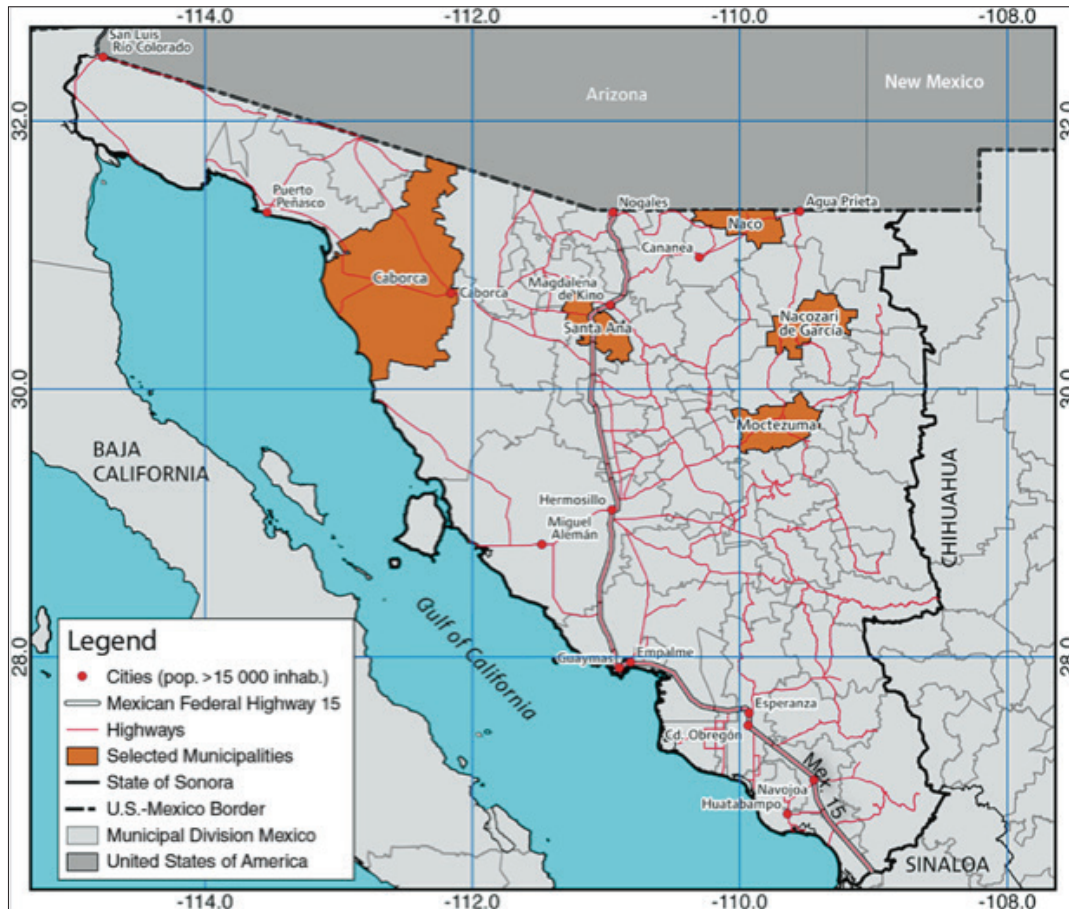
Municipality	Date of Measure	Restriction	Exceptions	Sanctions
Nacozeni de García	March 20, 2020	From Monday to Sunday, from 8:00 p.m. to 8:00 a.m.	Workers of Grupo Mexico ("as long as they justify it") and people who need to go to a pharmacy	They are not mentioned
Caborca	March 20, 2020	Friday, Saturday and Sunday, from 10:00 p.m. to 6:00 a.m.	When working responsibility or some kind of real emergency is proven	Referral to Public Security facilities and possible sanctions
Naco	March 20, 2020	Monday to Sunday, from 9:00 p.m. to 7:00 a.m.	Carrying out essential activities	They are not mentioned
Santa Ana	March 21, 2020	Monday to Friday, from 9:00 p.m. to 7:00 a.m.	Essential activities	They are not mentioned
Moctezuma	March 22, 2020	Monday to Friday, from 9:00 p.m. to 7:00 a.m.	Essential activities	They are not mentioned

Source: own elaboration based on research.

Because they are not nearby municipalities (see Figure 1), the similarity in some elements of the measure is noteworthy. Among the elements in common is the way in which the measure is disclosed: through the city council's page on Facebook, which alludes to the appropriation that public administrations have made of this platform and that it is considered a broad and economical medium

<sup>19</sup> Conmínese a los 72 municipios del Estado de Sonora, para que en el ámbito territorial de sus respectivas demarcaciones y en uso de sus atribuciones legales, observen las presentes medidas sin restringir las garantías individuales contempladas en la Constitución Política de los Estados Unidos Mexicanos y de [sic] la Constitución Política del Estado de Sonora, toda vez que se trata de una contingencia sanitaria epidemiológica (Gobierno del Estado de Sonora, 2020a).

Figure 1. *Geographic Location of the First Five Municipalities that Decreed the Curfew*



Source: own elaboration with data from the Instituto Nacional de Estadística y Geografía (National Institute of Statistics and Geography) (2010, 2019a, 2019b).

to make the authority's determinations known; however, if the sensitizing concept of legal certainty is taken into account, it is a failure. Posts on platforms such as Facebook can be modified and there may be no control over the person responsible for providing the information. It remains to be discussed whether or not it is a discriminatory vehicle for publicizing the authority's determinations, as it is not known which segment of the population has access to that platform.

Another common element, based on what was expressed by the interviewees, is the position taken by the city councilors: support. Although not all municipalities acknowledged that this was a determination by the city council (in the case of Caborca there is express recognition that this was not the case), in accordance with the reconstruction of the cases, there were no dissenting voices against the proposal or the implementation of the measure. On the contrary, although they were from different political parties, the councilors of the municipalities under study supported the measure.

A third common element is that the representatives of the municipalities argue that the external provisions and recommendations are the justification for implementing the measure. Both in the interviews conducted and in the videos available on social networks, reference is made to the Stay at Home Program, the recommendations of the state government, and even those of the federal government. This is different from reality: although the strategy mentioned exists, its measures did not include reducing the mobility of people at night or on weekends. Apart from the above, there are no other elements in common.

The population range of the municipalities goes from a little more than five thousand people to ninety-five thousand inhabitants. Only two of the five municipalities are border ones (so the argument of risk of contagion due to proximity to Arizona, as stated in Naco, could not be shared). Nor were the same procedures followed in making the decision, although it can be seen that in the cases of Santa Ana and Moctezuma, the last two to make the determination, legal support was sought.

The political element, seen in the sign of the coalition (2018 elections) that proposed the person who serves as mayor, does not offer homogeneous elements either, since there are administrations of the Por Sonora al Frente (For Sonora on the Front Line) coalition, integrated by the National Action Party (Partido Acción Nacional, PAN) and the Party of the Democratic Revolution (Partido de la Revolución Democrática, PRD) (Nacozari de García); the Juntos Haremos Historia (Together We Will Make History) coalition, made up of the Labor Party (Partido del Trabajo, PT), the National Regeneration Movement (Movimiento Regeneración Nacional, MORENA), and the Social Encounter Party (Partido Encuentro Social, PES) (Caborca); the one formed between the Institutional Revolutionary Party (Partido Revolucionario Institucional, PRI), the New Alliance Party (Partido Nueva Alianza, PANAL), and the Ecologist Green Party of Mexico (Partido Verde Ecologista de México, PVEM) (Naco); the Todos por Sonora (All for Sonora) coalition, integrated by the PRI, PVEM, and PANAL (Moctezuma and Santa Ana).

According to the information provided by the State Secretary of Health (response to the request for information, official letter SSP-UT/2020/00035), health jurisdictions II and III (where the municipalities under study are located) coordinated various information meetings, managed equipment to strengthen the capacity of the buildings that would be used to provide care to those likely to be infected, supported the rural population and day laborers, and formed (specifically in Moctezuma) a Municipal Contingency Coordination Committee. Nothing about the curfew. The following are the particularities of the cases.

### Nacozari de García

The municipality of Nacozari de García occupies less than 1% of the land area of the state of Sonora. Due to its irregular shape, it borders the municipalities of Fronteras, Agua Prieta, and Bavispe to the north; Bavispe, Bacerac, and

Villa Hidalgo to the east; Villa Hidalgo and Cumpas to the south; and Cumpas, Arizpe, Bacoachi, and Fronteras to the west. The population of this municipality was estimated at 14,319 people in 2018 (Sistema de Información Estadística del Estado de Sonora [SIIES], 2020).

As for the formation of the current municipal administration, in the 2018 electoral process it had the participation of 64.61% of the electoral roll, estimated in 10,017 people. The winner was María Juana Romero, who headed the formula of the Por Sonora al Frente coalition, made up of the PAN and the PRD. Of the five positions in the city council, three were held by the Por Sonora al Frente coalition, one by the PRI, and one by the independent candidate for mayor, Raymundo Arias Galindo (Instituto Estatal Electoral de Sonora [IEES], 2018).

This was the first city council to issue a curfew. The following weeks after the decision was taken, the telephones of the city council were not answered at any time and the official website of the municipality ([www.nacozari.gob.mx](http://www.nacozari.gob.mx))<sup>20</sup> did not show any information about the measure taken. Another means of communication, the Twitter account (@gobdenacozari), was last updated on November 26, 2018, two months after the account was created.

Decisions were made known through the Facebook page (@gobdenacozari). On March 18, 2020, through a video (Gobierno Municipal de Nacozari de García, 2020a), the municipal president announced the suspension of permits to hold events and the implementation of citizen contact programs, alluding to the fact that “the preventive recommendations of the health authorities” were being followed.

A day later, on March 19, on the same platform, an image was published indicating that the public would be served by telephone and by email, from nine in the morning to one in the afternoon. That same day, in a video broadcast live (Gobierno Municipal de Nacozari de García, 2020b) on the same platform, the municipal police commander announced the decision of the city council to “sound the sirens of the Cerro<sup>21</sup> from ten o’clock at night to let people know that they should not walk on the street.” The video shows the municipal president correcting the time. And the commander changes what he said: “From eight o’clock at night.” The municipal president completes the message: “From eight to eight.” And the commander completes his message by repeating the schedule. He adds the information about who is exempt from the measure: the workers of Grupo Mexico (“as long as they justify it”) and people who have to go to a pharmacy. The message is posted on the Facebook platform but, in terms of legal certainty, the information published in this medium can be modified or deleted at any time.

An analysis of the rationality of the decision cannot be sustained in technical terms because it is political. This can be seen in the way it is communicated:

<sup>20</sup> Visited on March 23, 2020.

<sup>21</sup> Reference to the Cerro de la Virgen, a geographical feature in the form of an elevation located in the southern section of the municipal capital.



in the video the mayor is seen standing up and being escorted by the representatives of the different corporations. At the table where the city council is sitting, the councilors are approving and accompanying the message being given. The commander, a public servant who is granted the use of his voice, was not clear about the time at which the measure would begin. The corporations are endorsing and replicating a decision; the mayor has the leadership. In this case, a health emergency is alluded to, but it is not the formal authorities indicated in the law that make the decision because, as already mentioned, the LGS indicates that the emergency measures “can only be ordered or executed by the Secretary of Health and, where appropriate, by the governments of the states.”<sup>22</sup> Therefore, the participation of the municipalities is subordinated to the agreements that they enter into with the governments of the respective states according to article 403 of the same law. In principle, it is the Secretary of Health or the local health councils, by means of agreements, that must make the decisions.

### Caborca

Caborca is a border municipality and the main city is located 137 miles from the crossing through Nogales to the United States. The estimated population in 2018 was 95,363 people (SIIES, 2020). In the 2018 elections, with the participation of 48.65% of the electoral roll (62,598 people), the winning formula was led by Librado Macías González, promoted by the Juntos Haremos Historia coalition, formed by the Labor Party, MORENA and Social Encounter. Six councilors from the winning coalition, one councilor from each of the participating parties (PAN, PRI, Citizens’ Movement [Movimiento Ciudadano], PANAL) and one councilor representing the original population of the Papagos (IEES, 2018) made up the city council.

On its Facebook page (@ayuntamientocaborca20182021), on March 20, 2020, the city council published the following message:

To the community of Caborca:

As a way of reinforcing in our community the “Stay at Home” social isolation program, promoted by the state government through the Secretary of Health in the face of the coronavirus pandemic contingency, the municipal president Librado Macías González has ordered a ban on the movement of vehicles and people at night during the weekends from today until April 20. Thus, the circulation of vehicles and people is restricted on Friday, Saturday, and Sunday from 10:00 p.m. to 6:00 a.m., with the warning that people who have no justification and are caught in the streets by the Municipal Police may be referred to the Public Security facilities, with possible application of sanctions. It should be clarified that the circulation of vehicles and people will be allowed as long as

<sup>22</sup> “[sólo] pueden ser ordenadas o ejecutadas por la Secretaría de Salud y, en lo competente, por los gobiernos de las entidades federativas” (Cámara de Diputados, 2019b, article 403).



they prove that they are coming to fulfill their work responsibilities and/or some kind of real emergency.<sup>23</sup>

The decision “was not specifically a city council agreement, it was not in a city council session. It was at the conclusion of an extraordinary meeting to discuss matters of this emergency, the mayor talked with the councilors and they agreed to give him full support” (Cabrera Andrade, 2020). And the matter did not stop there. After the first weekend, it was decided to extend the measure for the rest of the week, “because as young people are without responsibilities, it is the same for them if it is the weekend or on weekdays” (Cabrera Andrade, 2020). The decision was based on two arguments: first, the results they considered positive:

On the second night, Saturday night, there was a person who was arrested. A woman, by the way. She was on the street, with no cause [*sic*] to justify being on the street. And it turns out that she even had an arrest warrant when she was put into the system. She had an outstanding warrant, so it was enforced. (Cabrera Andrade, 2020)

The second argument is the acceptance that the authority perceives of the measure: “there have been surveys. It was a local medium. Ninety percent of the people are in favor of the restrictions that are being imposed here” (Cabrera Andrade, 2020). He refers to the *Albertico Noticias* website, a local news and advertising site, in which citizens were asked about the measure, and the results they published were those that the authorities took into account.

In order to justify the decision to implement the measure, the official interviewed said in the first instance that he was working “in accordance with the recommendations of the state government, through the Secretary of Health [...], [in] the program called Stay Home” (Cabrera Andrade, 2020). But later he acknowledged that

The Secretary [of Health] is not exactly proposing a curfew. But here, in the periodic meetings they have with personnel from the Secretary of Health, the Coordination of Health Risk, municipal agencies such as Civil Protection or Public Security saw that it was convenient to apply this type of measure because here young people meet, at night, especially to consume, to drink [alcohol]. And, well, these are meetings of

<sup>23</sup> A la comunidad de Caborca: Como una forma de reforzar en nuestra comunidad el programa de aislamiento social “Quédate en casa”, que promueve el gobierno del estado a través de la Secretaría de Salud ante la contingencia por la pandemia de coronavirus, el presidente municipal Librado Macías González, ha ordenado prohibir la circulación vehicular y de personas por las noches durante los fines de semana desde el día de hoy y hasta el 20 de abril. De este modo queda restringida la circulación de vehículos y personas los días viernes, sábado y domingo en horario de 10:00 de la noche a 6:00 de la mañana, bajo la advertencia de que las personas que no tengan alguna justificación y sean sorprendidos en las calles por la Policía Municipal podrán ser remitidos a las instalaciones de Seguridad Pública, con posible aplicación de sanciones. Cabe aclarar que la circulación vehicular y de personas será permitida siempre y cuando comprueben que acuden a cumplir con sus responsabilidades laborales y/o de algún tipo de emergencia real. (@ayuntamientocaborca20182021)

more than ten people and that is contrary to the Stay at Home Program. (Cabrera Andrade, 2020)

The person in charge of updating publications on the city council's Facebook page offered the following justification for implementing the measure: "Because the weekend is when more idle people are out on the streets" (Ayuntamiento de Caborca 2018-2021, 2020).

There is no causal link between the measure implemented and the problem to be solved, and it does not matter. In this case, the measure is taken without formality, without documentation, without the validity of any city council session (where, according to the rules, there is no power to do so either). After a weekend, following the same mechanism, the measure is extended. From being a measure for weekends, it extends to the entire week.

## Naco

Naco is a border municipality with the United States. The estimated population in 2018 was 7,123 people (SIIES, 2020). In the 2018 elections, the formula headed by Andrea Celeste Ramos Erivez-in a common candidacy, decided between the PRI, PANAL, and PVEM-was the winner. From the nominal list, 66.6% of the 4,602 people that make it up went to the polls. The city council was composed of three positions under the same formula as the mayor, one for National Action and another for MORENA (IEES, 2018).

The official website of the municipality ([www.ayuntamientodenacosonora.gob.mx](http://www.ayuntamientodenacosonora.gob.mx))<sup>24</sup> was not used to inform the decision on the measure. The page, in general terms, was not updated when it was visited in March 2020. The information included in the sections on the Presidency and Social Communication, which could be used to provide information on the decision, had last been modified on May 20, 2019.

On the Facebook platform page (@H.AyuntamientodeNaco) it was, as in the other cases, where the administration made its decision known. This is an image with the heading "Official Statement"; the document is signed by the municipal president and has no other date, only that which the platform automatically assigns to the publication. There it reads:

To the population in general and with strict adherence to the recommendations of the State Government, the Secretary of Health, Civil Protection and the H. City Council of Naco, Sonora; the following action has been determined [...] Curfew [...] starting today, March 20 to April 20, emphasizing that it will not be possible to move around the municipality to carry out non-essential activities from 9:00 p.m. to 7:00 a.m. [...]<sup>25</sup>

<sup>24</sup> Visited on March 23, 2020.

<sup>25</sup> A la población en general y con estricto apego a las recomendaciones del Gobierno del Estado, la Secretaría de Salud, Protección Civil y el H. Ayuntamiento de Naco, Sonora; se ha determinado la siguiente acción [...] Toque de Queda [...] dando inicio el día de hoy 20 de marzo al 20 de abril, haciendo hincapié que no se podrá circular por el municipio para realizar actividades no esenciales en horarios de las 21:00 horas a las 7:00 horas [...] (@H.AyuntamientodeNaco)

The public servant who was interviewed emphasized what he considers to be the legal backing for the decision: “A city council meeting was held and the measure was taken based on the articles of the Health Law, articles 272, 273, 280, and 281. They are articles, if you read them, very simple” (Madrid Hernández, 2020).

The main argument for implementing public policy was to follow the recommendations of the state government: “Recommendations of the state government, Health, Civil Protection began to be made to the people to stay in their homes [...] but people do not listen, to tell you the truth” (Madrid Hernández, 2020). As in other cases, the consumption of alcohol by the population seems to be a strong reason: “We are preventing them from walking around, from drinking alcoholic beverages on the street, we are keeping the boys off the streets. This is what is being prevented” (Madrid Hernández, 2020).

Later in the interview, the informant reveals two additional arguments: the behavior of minors and the fact that from the United States people cross the border in search of food and cleaning supplies, which would increase the risk:

We found out that there are a lot of young people on the street, because maybe the parents have to work. Based on that, this measure had to be taken [...]. We are here on the border with the United States and part of the very high outbreak is in Arizona, so we are a much higher alert spot than the other municipalities in the state of Sonora [...]. Yes, there was a lot of influx of Americans to buy medicine in pharmacies [...], even to carry groceries, because in the United States there is a shortage of potatoes, beans, toilet paper, cleaning supplies. (Madrid Hernández, 2020)

The informant’s description of Arizona does not match official U.S. data. With information from the Arizona Department of Health Services ([www.azdhs.gov](http://www.azdhs.gov)), the Centers for Disease Control and Prevention (CDC, 2020) indicated that the number of cases of the disease was 401 and that most of them were located in Maricopa County (251). The neighboring county of Naco, Sonora, is Cochise, where one case was reported on March 25, 2020. Positive cases in Arizona at that time were not comparable to, for example, those reported in California (2,532 cases).

The absence of precise data did not prevent the informant from following the narrative: “Here, the city hall is two blocks from the U.S. border gate. So, the Americans are walking across and the shops are in these two blocks. There are some pharmacies, some grocery stores [...] It is something very noticeable [the increase of Americans in the city]. You immediately identify the American people” (Madrid Hernández, 2020). And he takes up the reasons for concern about the border crossing from Arizona to Naco: “Frankly, the federal government has not come forward; it has not given any indications, any precautionary measures at the border. The border is freely accessible from there to here, but not from here to there. Mexicans already have restricted access” (Madrid Hernández, 2020).

The public servant has doubts about the effectiveness of the measure. The main cause is the lack of collaboration from other municipalities in the terms already assumed by the municipal administration to which he belongs:

We had a point of discussion yesterday as a city council. For example, we implemented it [the curfew], but Agua Prieta and Cananea did not. So, the municipality of Naco is supported by many activities of these municipalities; that is, our people go there daily because they work in maquiladoras in Agua Prieta or in the mine in Cananea. So, yesterday we were saying, we are doing our part. But in other municipalities we don't see any intention of implementing prevention actions. There are no signs of support or solidarity from these municipalities. (Madrid Hernández, 2020)

### Moctezuma

Moctezuma is a municipality located in the center of the state of Sonora. In 2018 it had a population of 5,240 people (SIIES, 2020). In the 2018 elections, the formula promoted by the Todos por Sonora coalition, made up of the PRI, the PVEM, and the PANAL, headed by Adriana Sepúlveda Rodríguez, was the winner. Of the five positions for the city council, three were occupied by the Todos por Sonora coalition, one by the PAN and one by MORENA. Participation in these elections was 72.97% of the electoral roll (IEES, 2018).

On March 22, an official statement was published on Facebook, announcing a curfew for the period from March 22 to April 20, 2020, from 9 p.m. to 7 a.m. It will be announced “by the sound of the Parish bells [...] as the only warning. With this, it is expected that people who do not have essential activities will remain in their homes.”

The main public policy argument is no different from the other cases and is also unrelated to the problem to be solved. When explaining the measure, as in the other cases, precise population groups and behaviors that are intended to be inhibited are mentioned, without being able to identify the relationship with the spread of the coronavirus:

Those strategies were taken from nine at night to seven in the morning because that is when many of the young people, whether on Friday, Saturday or Sunday, start going out, going for a stroll and hanging around. And, well, that causes many of the teenagers to say, “It's going to be okay.” And this makes young people more aware that they must take care of themselves. (Sepúlveda Rivera, 2020)

The difference between this case and the previous ones is that this document does indicate a legal basis: the Health Law for the State of Sonora, articles 272, 273, 280, and 281, and it adds the agreement 12/2020 taken in an Extraordinary Session of the city council.

The mayor defended the measure taken: “It was a unanimous decision by the city council, which is the highest authority in a municipality [...]. It is one of the strategies that, according to the mayor and the city council, which is the maximum authority, we took in order to have the people protected at home” (Sepúlveda Rivera, 2020). The decision was made according to the Law, she commented. “They say that only the president of the republic can authorize it [the state of emergency]. But if we resort to the [Health] Law, it is like a support that they also give us to protect, in case of a disaster or insecurity, the citizens of a municipality” (Sepúlveda Rivera, 2020).

She described how the decision was based on similar practices adopted in other municipalities to tackle the problem of insecurity:

In other municipalities, as was the case with insecurity in the past months, many of the municipalities took the curfew as a strategy to protect families from organized crime. It was to keep the whole municipality safe [...]. Other municipalities in the high mountains, Huachineras and elsewhere, already had curfews. It never affected anything [...]. And since all of this came about, the coronavirus, we took that strategy as well to protect, more than anything, our young people. (Sepúlveda Rivera, 2020)

If according to known experience the curfew did not affect anything, in this municipality nothing would have to happen either. In fact, the strength of the measure is based on the recognition of what in the municipality would be an intellectual elite:

The entire municipality has accepted it well. There we have the University of the Sierra. Teachers who have masters and doctorates are seeing it very well. They have congratulated us as a city council. As one of the strategies that the people have supported the most until today. They thought it was good. At night no one is seen driving around or parked in any of the tourist parts of the municipality. (Sepúlveda Rivera, 2020)

## Santa Ana

Santa Ana is located in northern Sonora, but it does not have a border with the United States. In 2018, it had an estimated population of 18,071 people (SIIES, 2020). As for the elections, the 2018 process had the participation of 58.98% of the 12,646 people on the electoral roll. In the municipality, the proposal of the Todos por Sonora coalition, made up of the PRI, the PVEM and the New Alliance Party, was the winner. Javier Francisco Moreno Dávila was the candidate for mayor. Of the five positions in the city council, three were occupied by members of the Todos por Sonora coalition, one by the PAN and one by MORENA (IEES, 2018).

On Facebook (@ayuntamientodesantaana), a picture was published on March 21 indicating the curfew. There it is reported that it is issued following the rec-

ommendations of the mayor and the state government authorities. This measure would be effective from that day until further notice, from 9:00 p.m. to 7:00 a.m.

As to whether they had received any suggestion or indication from the Secretary of Health in Sonora or from any other authority, the response was forceful: “The truth is no” (Moreno, 2020).

The main argument for carrying out public policy has similarities with the other cases:

Unfortunately, what happens is that we are very reckless and we believe that it will not happen to us. And taking into account that people were not considering the measures that we should take, well, we put a halfway curfew in place: we are not going to arrest anyone walking around; rather we go and tell them, we suggest them to go away. (Moreno, 2020)

At the city council, where the curfew was proposed, the reaction was favorable: “Everyone understood. They understood that it is an emergency measure. As I say, it is not a military thing. But people are still on the street, they are not understanding it” (Moreno, 2020).

## Findings and Conclusions

After the five municipalities mentioned here made the decision to apply the curfew measure, others replicated it. Trincheras made the decision on March 23. In a joint statement with eight municipalities along the Sonora River (Ures, Arizpe, Banámichi, Huépac, Aconchi, Baviácora, San Felipe de Jesús, and Bacoachi), they announced their decision on March 24. As of April 1, in the most populated cities of the state-Hermosillo and Ciudad Obregón-the municipal authorities deployed the strategy of inviting people to stay at home from 6:00 p.m. to 6:00 a.m. Two months later, 21 of the 72 municipalities did so as well.

On May 12, the State Commission on Human Rights (CEDH) announced the end of a conciliation and mediation process through which it was agreed to “nullify the so-called curfew” (CEDH, 2020). In its official statement, the CEDH determined that these practices were contrary to human rights.

In the journey through the decisions made in exceptional contexts, the following reflections are presented as findings:

### *1. On Political Rationality, Illegality, and Acceptance*

The so-called curfews (understood as states of emergency) have no legal basis, since neither the city councils nor the mayors have the power to decree them. As instruments of public policy, legislation was interpreted in accordance with the need created by the situation. In Sonora, in the face of what was happening with the spread of the coronavirus, cases were presented that served as an example and inspiration for other measures and other municipalities. Within the state, it was not until two months later, thanks to



the intervention of the State Commission on Human Rights, that a position against the measures became apparent.

Permissiveness of illegal elements undermines the rule of law. Among the experiences that were narrated, one of the “achievements” stands out: the execution of an arrest warrant against a woman who was on the street without justification, in the understanding of the representatives of the law, duly. In the face of this, there is also a lack of institutional mechanisms that are attentive to what may be happening while the measure is being applied. Apart from the intervention of the State Human Rights Commission, there is no known procedure for detecting human rights violations committed during the period of the extraordinary measure.

## 2. *On the Use of Nearby and Known but not Applicable Resources*

In the study, it was mentioned that some actors knew the measures applied in other municipalities to deal with insecurity, that is, that in the decisions taken to address a health issue, the experience accumulated in the neighboring municipalities was considered (as a reference, as a precedent), even if it had been implemented with different objectives. This could partially explain why the measure identified as a curfew was applied and was determined to be temporary at night and on weekends.

Recognizing the good intentions of the administrations under study, it should be pointed out that the limitations on the capacity for innovation (together with other factors such as the difficulty in interpreting rules or understanding the replicability of measures implemented in other contexts) led to the use of nearby and known resources, but not applicable, infringing (or putting at risk) the sphere of the population’s human rights.

## 3. *On Causal Decoupling, the Argument of Emergency, and Symbolic Communication*

From a public policy perspective, government intervention is justified when a causal relationship between action and expected change can be established (in extreme cases, even in a minimal way). In other words, the use of public resources is only understood when government action can be identified with a change (in the desired direction) that can be achieved through that intervention. This is not observed in the cases studied.

The virus does not spread exclusively at night or during weekends. There is no way to sustain the causal relationship between the action (curfew, at night and on weekends) and the expected change (decreased spread of a virus). In the cases studied, on the contrary, another intention of the authorities is observed: to reduce consumption of alcohol.

In the cases studied, however, decoupling must be understood in the face of the argument of emergency, a situation that is not explored in the public policy literature. Here, the lack of a causal relationship between action and expected change may not be understood, or may not even be important. Emergency (associating the risk of death with the spread of the disease) makes it possible to justify government action even in the absence of a causal relationship.

In this vein, an analysis of the rationality of the decision from a public policy perspective would have limited results. The measures implemented are political, not technical, and the use of symbols reinforces their relevance even if they lack legality or arguments.

#### 4. *On Legitimate Support in the Absence of Evidence and Argument*

The rationality of technical decisions in public policy must privilege the use of evidence (decisive evidence), information (data processing and its clear communication) and argument (demonstration of a proposition as a consequence of the concatenation of discursive elements, information and evidence).

In the cases studied, it could not be determined that the decisions had been taken considering this rationality of public policies. It could be said that rationality is not present in a preponderant way in government decisions; rather they were taken in a context of emergency and exception.

In the absence of a diagnosis or information that could justify the decision, the municipal administrations legitimized their measure on the basis of: 1) external instructions, stating that they were following the recommendations of the State Government, for example; 2) local leaderships, such as the group of scholars from the local university, the news portal, or the popular recognition of the measure. In other words, in this context and in the field of reality, external instructions and local leaderships were sufficient to legitimize the curfew decision without using more complex models related to the rationality used to make technical decisions.

What is analyzed in this paper makes it possible to delineate the way in which local governments make decisions on the measures they adopt in a case of exception. The investigation was carried out in circumstances of little official documentation and despite the fact that the municipal authorities decreased their availability to attend to the researchers' telephone calls and emails.

Due to Phase 1 of the health emergency caused by the COVID-19 pandemic, the administrations of five municipalities in Sonora took urgent decisions. This paper analyzes them from a public perspective. The analysis indicates that these decisions are not technical but political, that they are outside legality and have limited opportunities to be effective.

The municipal administrations under study took advantage of the pandemic's argument of emergency to influence other issues not related to the public problem in question. They found and used external factors and the opinions of local leadership groups to legitimize the curfew measure. In emergency situations, decisions are made quickly.

It can be said that the spread of a virus that causes disease or, in extreme cases, death is not considered positive. However, the restriction of human rights through a night curfew does not contribute to the improvement of the situation, even more so if the criteria for implementing such a measure are unclear and are communicated to the citizenry through alternative channels,

such as social networks. It is known that a virus does not spread only at night or during weekends. For that reason, the measure is out of place.

It remains as a pending research agenda: 1) detailed exploration of informal decision mechanisms, and 2) identification of other measures taken by local governments in a crisis context to assess their relevance with respect to the current legislation and their expected effectiveness.

Institutional certainty and legal certainty, among other aspects studied here, even when they seem to hinder decision making, are the dike that safeguards people from the capricious exercise of those who hold public power.

*Post scriptum:* On June 13, 2020, while working on the corrections suggested by the reviewers of this text, the municipal authority of Hermosillo (capital of Sonora) announced through a social network to the inhabitants that they should request the municipal police for a safe-conduct to be able to drive between 6:00 in the afternoon and 6:00 in the morning.

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