

## General Principles

### Statutes are better than regulations

- Schemes should be provided in statutes instead of executive rules (i.e. regulations).
- The making of laws should follow three principles:
  - **Consultative** – last a minimum of 4-6 weeks and involve sub-national governments, opposition parties, trade unions, academics, the public, and others.
  - **Transparent** – the consultation and government responses should be published well before the introduction of any bill.
  - **Clear** – legislation should not leave major policy questions for interpretation by government departments or private actors.
- Temporary or fast-tracked legislation should be replaced promptly with laws following the three principles outlined above.

### Protection of rights through equality and proportionality

- Human rights protections are not absolute, but restrictions should adhere to the principle of proportionality (see Box 1).
- A proportionality test requires any scheme to:
  - Pursue the **clearly defined and legitimate aim** of protecting public health and/or securing greater freedoms for others.
  - Be **necessary and minimally impairing** in relation to the pursuit of the legitimate aim.
  - Strike a **fair balance**, with penalties imposed for non-compliance relevant to the strength of the requirement of the scheme.
- Schemes should allow fair access to vaccinations, i.e. by not discriminating against individuals based on protected characteristics.

### Exemption for some, engagement with others

- Exemptions legally excuse groups from compliance with schemes, but alternative measures (e.g. testing) can be required.
- Consultation with a range of public bodies should guide exemptions.
- Legal systems vary, but exemptions for religious beliefs/freedom of conscience are not generally required by human rights law.
- Reasonable vaccine hesitancy (see Box 1) should be met with constructive engagement and education but not exemptions.

## Information...

This briefing document summarises a more detailed set of principles (available [here](#)) signed by 50 academics within The Lex-Atlas: Covid-19 (LAC19) network (more information on the LAC19 project can be found [here](#)).

The point of the principles is to set out best or ideal practice for the design and implementation of mandatory vaccination schemes for Covid-19. To achieve this, the principles address the legal, constitutional, and ethical dimensions of mandatory vaccination requirements.

## Five Key Points

1. Well-designed mandatory vaccination schemes are both compatible with human rights **AND** have the potential to advance human rights.
2. Schemes should be regulated by statute, rather than executive rules.
3. Extensive consultation with a range of groups is essential for an effective scheme.
4. Constructive engagement with reasonable vaccine hesitancy should be part of any scheme, but it does not need to lead to exemptions.
5. Strong oversight is needed to ensure schemes do not depart from their stated aims.

### Box 1: Key terms

#### Mandatory vaccination requirements

Any law making vaccination compulsory, or any public or private vaccination requirement for accessing a venue that cannot be avoided without undue burden.

#### Principle of proportionality

The principle that the burdens placed on an individual when complying with a mandatory vaccination scheme are proportional to the aims of the law. The greater the burden, then the higher the bar of proportionality is set.

#### Reasonable vaccine hesitancy

Reluctance to take a vaccine resulting from distrust in dealings between the state and a given group or community. Reasonable vaccine hesitancy is often prevalent in groups and communities who have experienced a history of state-complicit persecution, discrimination, marginalisation, or neglect.

## Particular Sectors

### Workplace schemes must be clearly regulated

- International and domestic law recognises the right to safe and healthy workplaces.
- Occupational schemes should:
  - Be enacted by a **publicly coordinated and regularly scrutinised** framework of laws on a sector-to-sector basis.
  - Ensure the costs of adhering to a scheme should fall on the employer or the state.
  - Be clear that dismissal, suspension, and workplace exclusion are a **last resort**, and withdrawal of employment under such circumstances is regulated by law.

### Vaccination schemes in schools

- International human rights law recognises a right to primary and secondary education; higher education can be regarded as an essential public service.
- Providers have a duty to consider alternative means of education for families who refuse to comply with a scheme.
- Compulsory vaccinations programmes against other diseases and illnesses are an established feature of schools in over 100 countries.

### Public Spaces: Guaranteeing essential services

- States should regulate the framing and adoption of mandatory vaccination requirements for public venues and the service economy.
- Access to essential services should be legally guaranteed.
- There is greater discretion when adopting fair schemes for non-essential venues and services.

### Data: Minimal, limited & interoperable

- Data used for proof of vaccinations should be private, minimal, limited to a specific purpose and be interoperable within and across states.
- Care should be taken not to discriminate against those with limited documentation or unclear legal residency status.

### International impact

- Groups and organisations potentially impacted by schemes include asylum seekers, migrant workers, tourists and foreign businesses.
- Schemes should be designed with inequalities in the global access to vaccines in mind, and should not be conflated with immigration policies and priorities.