MANDATORY VACCINATION IN NIGERIA: RECONCILING HUMAN RIGHTS LIMIT AND STATE OBLIGATIONS

Dabeluchukwu Pacella Modilim*
Ifeoluwayimika Bamidele**
Abisola Akinleye***

Abstract

The COVID-19 pandemic intensified debated in Nigeria regarding the permissibility of mandatory vaccination, highlighting tensions between public health objectives and constitutionally protected rights. This article examines the legality of mandatory vaccination within Nigeria's constitutional and human rights framework. It proposes that though public health constitutes a valid ground for restricting rights as provided under section 45 of the constitution of the Federal Republic of Nigeria 1999 (as amended), such restrictions must satisfy the requirements of legality, necessity and proportionality. Through an analysis of leading medical cases in Nigeria, international human rights instruments such as the ICCPR and ICESCR and comparative jurisprudence, the article explains that mandatory vaccination in a democratic society should not be imposed though executive action alone. The article concludes that mandatory vaccination in Nigeria is constitutionally defensible when it is clearly grounded in legislative authority, supported by scientific evidence and accompanied by procedural safeguards.

* AcArb, Law Student, College of law, Afe Babalola University, Ado Ekiti, Nigeria. Email: dmodilim@gmail.com
** Ifeoluwayimika Bamidele, PhD, Associate Professor, College of Law, Afe Babalola University, Ado Ekiti. Email Ifeoluwayimikab@abuad.edu.ng
*** Abisola Akinleye LL.B, BL, AcArb, GradICSAN, LL.M, Lecturer, College of Law, Afe Babalola University, Ado Ekiti, Nigeria. Email: akinleyeai@abuad.edu.ng

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1.0 INTRODUCTION

Vaccination occupies an important place in public health governance as it is a preventive tool used to combat communicable diseases capable of causing morbidity and increasing mortality. In Nigeria, immunisation programs have historically focused on childhood diseases through routine vaccination schemes coordinated by the federal and state health authorities, often in partnership with international organisations. However, with recent public health emergencies most notably the COVID-19 pandemic, a lot of debates have arisen concerning the legitimacy of mandatory vaccination polices and the extent to which the state may lawfully override the individual choice in the name of collective health protection.

Since the advent of mass vaccination, legal scholars have been looking at this issue. Graeber, Schmidt-Petri and Schroder note that 'a policy of mandatory vaccination would be an extreme solution to solve the potential problem of low vaccine uptake, a lot to be said in favour of less extreme policies'[1]

Mandatory vaccinations have emerged as a legally contentious issue in Nigeria because it directly interferes with the fundamental rights guaranteed under Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 (as amended). Vaccination itself involves a physical intrusion into the body thereby engaging claims of bodily autonomy, personal liberty, privacy, dignity of the human person and in some cases freedom of thought, conscience and religion. The coercive character of

[1] Daniel Graeber, Christoph Schmidt-Petri and Carsten Shroder, 'Attitudes on Voluntary and Mandatory Vaccination Against COVID-19: Evidence from Germany', (2021) 16 (5) PLoS ONE, 1 – 18 at 15.

mandatory vaccinations whether expressed through direct compulsion or indirectly by sanctions such as denial of access to education, employment or public services, it raises legitimate constitutional concerns. These concerns are especially notable in a legal system where public health interventions have often been implemented through executive directives and subsidiary legislations rather that through clear and comprehensive frameworks.

The constitutional stakes are therefore vital to address. Chapter IV of the Nigerian Constitution[2] contains the fundamental rights of citizens which reflect Nigeria's commitment to the protection of individual autonomy against arbitrary state powers. However, the Constitution in the same chapter acknowledges that rights are not absolute. Section 45 permits the restriction of certain fundamental rights in the interest of public health, public safety, and public order, provided such restrictions are reasonably justified in a democratic society. The tension between these competing doctrines forms the core of the mandatory vaccination debate.

The occurrence of the COVID-19 pandemic brought about the international unprecedented global government interventions including nationwide lockdowns, travel restrictions and the subsequent deployment of vaccines to combat the virus's spread and its impact[3]. The mass vaccination campaigns aimed at eradicating the disease has however brought this tension to the fore front. While vaccinations are universally accepted and acknowledged as a major aspect of public health, the requirement of mandatory participation with regards to vaccination raises significant constitutional questions.

[2] Constitution of the Federal Republic of Nigeria 1999 (as amended).
[3] Joseph Thobela, 'Revisiting Vaccine Mandates and Human Rights in South Africa' (2025) 5 *Turf Law Journal*.

This tension has been partially addressed by the Nigeria Courts most notably in *Medical and Dental Practitioner Disciplinary Tribunal v Okonkwo*[4] and *Tega Esabunor v Faweya*[5]. The decisions and the rationale made by the courts in these cases illustrate the judiciary's attempt to balance personal autonomy against competing state interests, including the exercise of parens patriae jurisdiction and the protection of vulnerable persons. While these cases provide guidance, they do not resolve the broader constitutional question of whether, and under what conditions, mandatory vaccination polices may be lawfully imposed on the population at large, they also do not provide a framework for public health measure that are enacted during pandemics or endemics.

The research problem addressed in the article stems from the absence of a coherent legal framework governing mandatory vaccination in Nigeria. The extant public health laws particularly the Quarantine Act[6] are largely colonial and are not suited for modern day realities. The over reliance on executive directives to impose far reaching public health measures has garnered concerns regarding legality, accountability and compliance with human rights standards. In view of this, there is an urgent need for doctrinal clarity on the constitutional limits of mandatory vaccination.

This article is necessary on several grounds. The first is that it responds the growing body of public health regulations that directly tamper with fundamental rights. Secondly it contributes to Nigerian constitutional academic research by placing mandatory vaccination within established human right limitation doctrines rather than treating it as a purely policy driven matter. Thirdly, it critically engages international and regional human rights instruments to which Nigeria is bound and analyses the

[4] (2001) 7 NWLR (Pt 711) 206.
[5] (2019) 7 NWLR (Pt 1671) 316.
[6] Quarantine Act, Cap Q2, Laws of the Federation of Nigeria 2004.

domestic constitutional provisions against Nigeria's international obligations. And finally, it seeks to provide a balanced legally grounded approach to rights limitations in public health emergencies.

The article adopts a doctrinal methodology, primarily relying on constitutional interpretation, statutory analysis, judicial decisions and authoritative international and regional human rights instruments. A bit of comparative jurisprudence is employed to further illuminate principles relevant in the Nigerian context, rather than to suggests foreign solutions wholly. The analysis is grounded in legality, necessity, proportionality, and public interest, with particular attention to the Siracusa Principles and their relevance to public health interventions.

Structurally the article begins by giving a succinct introduction to the topic. It proceeds to clarifying conceptual and legal foundations of mandatory vaccinations and examining its constitutional and human rights implications under Nigerian law. It then places Nigeria's obligations within the broader framework of international and regional huma rights law, which is then followed by a proportionality analysis of mandatory vaccination measures. Comparative insights are also further drawn to highlight best practices and give lessons. The article concludes by offering concrete, constitutionally grounded recommendations for reform within the Nigerian public health governance.

2.0 CONCEPTUAL AND LEGAL FRAMEWORK OF MANDATORY VACCINATION

2.1 Meaning and Scope of Mandatory Vaccination

Mandatory vaccination refers to a legal or regulatory regime under which individuals are required to undergo vaccination as condition for participation in certain aspects of social life or to avoid legal

consequences.[7] Contrary to popular belief, mandatory vaccination does not entail to use of physical force or involuntary administration, rather modern legal systems predominantly rely on indirect mechanisms of compulsion that operate either through law, policy or administrative regulation.[8]

Direct compulsion vaccination should be differentiated from mandatory vaccination. Compulsory vaccination typically involves the use of physical force to enforce vaccination without consent and is typically justified only in exceptional cases and is rarely ever employed in constitutional democracies. However mandatory vaccination isn't merely prevalent, it encompasses regulatory techniques whereby vaccination serves as a prerequisite for access to public services, schools, workplaces and even participation in communal activities.[9]

In the Nigerian context, mandatory vaccination has manifested through indirect compulsions rather that explicit statutory mandates.[10] Public health authorities have relied on executive directives, guidelines and emergency regulations to encourage compliance, sometimes tying

[7] Lawrence O Gostin, *Public Health Law: Power, Duty, Restraint* (3rd edn, University of California Press 2000). (conceptualising public health law as the legal powers and duties of the state to assure conditions for population health, balanced against limitations on state power); see also Lawrence O. Gostin, *A Theory and Definition of Public Health Law* (2007) 10 *J Health Care L & Pol'y* 1 (2007). Available at: http://digitalcommons.law.umaryland.edu/jhclp/vol10/iss1/2, 3–5 (explaining that public health law both empowers and limits state authority in safeguarding communal health).

[8] Lawrence O Gostin and Lindsay F Wiley, 'Governmental Public Health Powers During the COVID-19 Pandemic: Stay-at-home Orders, Business Closures, and Travel Restrictions' (2022) 323 *JAMA* 2137.

[9] Gostin (n 7).

[10] See generally COVID-19 Regulations 2020 (made pursuant to the Quarantine Act), Federal Republic of Nigeria; National Primary Health Care Development Agency (NPHCDA), *COVID-19 Vaccination Strategy and Implementation Plan* (2021); Presidential Task Force on COVID-19, *Implementation Guidelines for COVID-19 Protocols* (2020–2021).

vaccination status to the ability to access public institutions or services. While these measures may seem less coercive than physical enforcement, their legal effect is still substantial. The conditional access places individuals in a position where refusal caries significant social and economic consequences, which in turn raises serious questions about the voluntariness and consent.[11]

2.2 Theoretical Foundations

To understand the legal basis for mandatory vaccination, one must engage with the jurisprudential theories that underpin state intervention in private lives. There are two dominant theories: Legal Paternalism and the Harm Principle.

2.2.1. Legal Paternalism posits that the state acts as a guardian for its citizens, and as such is justified in restricting their freedoms to protect them from their own harmful choices[12]. It can be seen as the interference by the state with a person, against their will and is motivated by the claim that the person interfered with will be better off or protected from harm.[13] In essence it is the interference with an individual's autonomy or liberty, against their will, justified on the ground that such interference benefits or protects that individual from harm. Paternalism can be in the form of soft paternalism and hard paternalism. Soft paternalism entails that intervention is justified only where individuals lack full capacity or information, and hard paternalism, intervention is justified even where individuals are informed and competent. Mandatory vaccination is typically hard paternalism as it often applies to informed adults.

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[11] Ayman, Y & Ulloa, L 'Ethical and Legal Debates on Vaccine Infodemics' (2024) 16(1) Cureus 1, 10.
[12] Gerald Dworkin, 'Paternalism' in Edward N Zalta (ed), *The Stanford Encyclopedia of Philosophy* (Spring 2020 edn) https://plato.stanford.edu/entries/paternalism/ accessed 2 January 2026.
[13] Dworkin (n 12).

In the context of public health, this suggests that because vaccination prevents severe illness and death, the state has a moral and legal duty to compel it regardless of individual consent.[14] This ideology is often justified under the Latin maxim *solus populi suprema lex*[15], which means the welfare of the people is the supreme law).[16] In Nigeria this paternalistic approach is embedded in the Chapter II Fundamental Objectives and Directive Principle of State Policy specifically Section 17, which mandates the state to ensure the health and welfare of all citizens. However, Paternalism is often viewed with suspicion in human rights jurisprudence. It presumes that the state or an individual knows better than the affected individual what is in their best interest, however the Supreme Court in *MDPDT v Okonkwo*[17] rejected medical paternalism in competent adults.

2.2.2 The Harm Principle, as articulated by John Stuart Mills, provides a particularly compelling justification for mandatory vaccination. Mill famously contended that 'the only purpose for which power can be rightfully exercised over any member of a civilised community against his will, is to prevent harm to others'[18].This principle implies that individual freedom is not limitless, and can be lawfully curtailed when its exercise poses a direct risk to others. Take for instance a person infected with Ebola who avoids quarantine, their actions could endanger public health. It is vital to note that Mill explicitly excludes children and those incapable of making rational decisions from his analysis.[19] Feinberg's Theory of Harm fall under this, and expands it even further, this theory stipulates that preventing harm

[14] Ibid.
[15] *Jacobson v Massachusetts* 197 US 11 (1905).
[16] Thobela (n 3).
[17] Okonkwo (n 4).
[18] John Stuart Mill, *On Liberty* (Batoche Books 2001) 41.
[19] Ibid.

to other is a legitimate reason for the state to limit individual liberty. Feinberg argues that harm occurs when an individual's actins compromise the legitimate interest of others. The Supreme Court in U.S in the case of *Jacobson v Massachusetts*[20], heavily relied on this logic, holding that a community has the right to protect itself against an epidemic of disease which threatens the safety of its members. This Harm principle also goes hand in hand with 'Utilitarianism' which s characterised by greatest good for the greatest number, i.e. a mandate can be justified if it maximizes overall survival/welfare.

Mandatory vaccination must not be solely based on paternalism but must show a harm-based justification. To frame mandatory vaccination as paternalistic risks the weakening of its constitutional legitimacy, particularly in jurisdictions that place importance on personal autonomy, A harm-based justification however aligns more closely with established limitation doctrines and avoids the thought that the state is merely making judgement for competent adults.

2.3 Vaccination as Public Health Measure

Vaccination is different from ordinary medical treatments because of its collective nature. Most medical interventions are directed primarily at the welfare of the individual patient. Vaccination operates simultaneously at individual and population levels. Its effectiveness most times depend not only on individual uptake but on achieving sufficient coverage across a community to interrupt disease transmission, a phenomenon often referred to as 'herd immunity'.[21] This collective character alters the legal classification of vaccination, placing

[20] *Jacobson v Massachusetts* (n 15) 12–13.
[21] Monica Neagu, 'The Bumpy Road to Achieving Herd Immunity in COVID-19' (2020) 46(1) *Journal of Immunoassay and Immunochemistry* 928–945, 929; Haley E Randolph and Luis B Barreiro, 'Herd Immunity: Understanding COVID-19' (2020) 52(5) *Immunity* 737–741, 737.

it with the domain of public health law rather that purely private medical decision making.

Public health significance of herd immunity alters the legal character of vaccination. An individual's refusal to vaccinate does not just increase personal susceptibility to disease, it also potentially undermines community-wide protection and thereby placing additional strain on public health infrastructure. This external impact distinguishes vaccination from elective medical procedures and provides the legal basis for intervention. It also explains why vaccination is frequently treated as a matter of public concern rather that private choice in many legal systems.

This preventive nature of vaccination does not displace constitutional safeguards, rather it highlights the need for detailed limitation doctrines to govern state action. As a result, vaccination mandated must be assesses within a framework that balances public health necessity against respect for individual rights. It therefore provides the conceptual foundation for the constitutional and human right analysis that follows

3.0 CONSTITUTIONAL AND HUMAN RIGHTS DIMENSIONS IN NIGERIA

3.1 Constitutional Framework for Fundamental Rights Protection

The Constitution[22] provides fundamental rights which reflects Nigeria's commitment to protection of individual autonomy, dignity, and liberty within a democratic order. These rights are intended to serve as limitations on the exercise of state power, including in the context of public health governance. Mandatory vaccination measures, whether

[22] CFRN 1999, ch IV.

imposed directly or indirectly engage several of these constitutionally guaranteed right and therefore require constitutional scrutiny.

3.1.1 Right to dignity of the human person under Section 34 of the constitution.[23] This provision is aimed at protecting individuals from inhuman or degrading treatment and affirms the intrinsic worth of the human body. Compulsory medical intervention, especially when administered without genuine consent raises concerns regarding bodily integrity and human dignity.

3.1.2 Right to personal liberty under section 35 of the constitution.[24] Liberty is often associated with freedom from unlawful detention; however, it has been acknowledged that it encompasses broader notions of freedom from coercive state interference. The section however provides for an exception in section 35(1)(e) where it permits deprivation of liberty in the case of persons suffering for infectious or contagious disease… for the purpose of their care or treatment or the protection of the community. This subsection authorizes the detention of those suffering from a disease, it raises a legal argument whether it authorizes the restriction of liberty for healthy people who might contract the disease.

3.1.3 Right to privacy under section 37.[25] Medical decision making and bodily choices fall within the right to privacy protected by the constitution. While the text appears focused on surveillance and communication, Nigerian courts following international jurisprudence have interpreted privacy to encompass the physical and psychological integrity of the person.

[23] CFRN 1999, s 34.
[24] CFRN 1999, s 35.
[25] CFRN1999, s 37.

3.1.4 Freedom of thought, conscience and Religion under section 38 of the constitution.[26] This section guarantees freedom of thought, conscience and religion, this is particularly relevant in Nigeria, where at times vaccine hesitancy is based on religious conviction.

3.2 Autonomy and Medical Consent in Nigerian Jurisprudence

The Nigerian courts have directly addressed the principle of personal autonomy in medical decision making. The locus classicus on this subject is *Medical and Dental Practitioner Disciplinary Tribunal v Okonkwo*[27]. The facts involve Dr. Okonkwo, who was charged with professional negligence for adhering to the wish of Mrs. Marta Okorie, a Jehovah's witness who refused lifesaving blood transfusion. The patient subsequently dies. The supreme court held unanimously that a competent adult has an absolute right to refuse medical treatment even if such refusal any result in death. Justice Ayoola JSC emphasized the right to privacy includes the right to self-determination and autonomy. The court held that to force medical treatment on a competent adult is an assault on their person and violation of their constitutional rights. This precedent poses a formidable barrier to mandatory vaccination on adults. If a citizen has the right to refuse a life-saving blood transfusion, they arguably have the right to refuse vaccine for a disease they might not even contract. To overcome this hurdle the state would need to distinguish vaccination which may affect a third party from blood transfusion which affects only the patient.

The court also highlighted per Ayoola JSC that rights and freedoms have limitations where the impinge on the rights of others or where they put the welfare of society or public health in jeopardy. And so, we see that a limitation of right is where it affects the rights of others. We may see

[26] CFRN 1999, s 38.
[27] Okonkwo (n 4).

the case of *Tega Esabunor v Faweya*[28]. In this case a mother, a Jehovah's witness refused blood transfusion for her one-month-old child. The doctor sought a court order to administer he blood which was granted. The mother appealed arguing a violation of her section 38 right. The supreme court dismissed the appeal, ruling that while the mother has the right to her religion, she does not have the right to martyr her child. The states *parent patriae* jurisdiction allows it to intervene to protect the life of a minor. This case established that the rights are not absolute when it endangers another life. The courts will interfere with the rejection of medical treatment as the law exists primarily to protect life and preserve the fundamental right of its citizens inclusive of infants. The law would not override the decision of a competent mature adult who refuses medical treatment that may prolong his life but would readily intervene in the case of a child who lacks the competence to make decisions for himself.

3.3 Rights Limitation under Section 45 of the Constitution

The constitutionality of any vaccine mandate ultimately rests on section 45 of the constitution, which authorises laws that derogate from the fundamental rights stated in sections 37,38, 39,40 and 41 provided that such laws are reasonably justifiable in a democratic society in the interest of public health, public safety or public order.[29] This section does not grant the state complete unchecked freedom to enact a law they like, rather it establishes that structured framework that is democratically valid may be put in place.

First, any restriction to any right must be by law for instance an act of the national assembly. Executive orders or circulars do not qualify as

[28] Esabunor (n 5).
[29] CFRN 1999, s 45.

laws capable of overriding constitutional rights.[30] The case of *Governor of Lagos state v Ojukwu*[31], represents this restriction as it portrays that executive action cannot lawfully infringe rights or interfere with private interests without statutory or judicial backing. Second, the restriction must fall within the scope recognised by the constitution. Public health is very clearly stated and falls within the permissible ground under section 45, especially in the context of infectious disease control. Third, the restriction must be reasonably justifiable in a democratic society. This requirement invokes the tests of proportionality and necessity. Mandatory vaccination polices that are too broad, indefinite or implemented without safeguards are unlikely to satisfy this standard, but a tailored mandate that is grounded in medical exemptions, and subject to review mechanism are more likely to withstand constitutional scrutiny.[32]

4.0 STATE OBLIGATIOONS UNDER INTERNATIONAL ANS REGIONAL INSTRUMENTS

Section 12 of the Nigerian constitution[33] provides that international treaties have effect only when domesticated by legislation, however Nigerian courts have often recognised that ratified international human rights instruments may serve as persuasive guides in construing constitutional provisions.

[30] Olusola Babatunde Adegbite, 'Vaccine Hesitancy, Mandatory Covid-19 Vaccination and the Right to Personal Autonomy in Nigeria: A Constitutional Analysis' (2021) 1(2) UCC Law Journal 239, 254.
[31] (1986) 1 NWLR (Pt. 19) 621.
[32] Tèmítọ́pẹ́ Maryam Bọ́ládalẹ́, 'Medico-Legal Issues in Compulsory Vaccinations and Quarantine' (Long Essay submitted to the Faculty of Law, Obafemi Awolowo University, Ile - Ife 2023) 29.
[33] CFRN 1999, s 12.

4.1 International Covenant on Civil and Political Rights

This treaty has not been fully domesticated in accordance with section 12 of the constitution[34], however Nigerian courts have consistently recognized its relevance in light of the fundamental rights granted under Chapter IV.[35]

Under the ICCPR, state parties are required to respect and ensure a range of civil and political rights, including the right to life, dignity, privacy, and freedom of thought, conscience, and religion.[36] The covenant recognises that certain rights may be subject to limitations where such restrictions are provided by law and necessary to protect public health.[37] The human rights committee has affirmed that public health constitutes a legitimate ground for limiting individual rights especially in circumstances when there is a threats to the population. However, such limitations must not be arbitrary, discriminatory, or disproportionate in their effect.[38]

4.2 International Covenant on Economic, Social and Cultural Rights (ICESCR)

This covenant like the previously mentioned covenant has also not been ratified accordance to section 12 of the constitution and has also been consistently recognised by the Nigerian courts. The ICESCR imposes positive obligations on states to take steps towards the realisation of the

[34] Ibid.
[35] CFRN 1999 Ch IV.
[36] *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, arts 6, 7, 17, 18.
[37] *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 12, which provides that the right to liberty of movement may be restricted where it is provided by law and is necessary to protect public health.
[38] Moses Ogorugba Omozue, 'Balancing State Power and Human Rights: A Jurisprudential Analysis of Pandemic Containment Measures in Nigeria' (2025) 11(1) NIU Journal of Legal Studies 103, 111.

right to highest attainable standard of physical and mental health.[39] The covenant imposes the duty of provision of healthcare services including the prevention, treatment and control of epidemic, endemic, occupational, and other diseases.[40] Vaccination programmes fall within this preventive dimension of the tight to health. And as such the Nigerian state is not only permitted under international law but required to under international law, to adopt reasonable measures aimed at controlling infectious diseases and protecting public health.

4.1 African Charter on Human and Peoples Rights

The African Charter on Human and People right maintains a special position within the Nigerian legal system as it has been domesticated through the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act. Due to this its provisions have direct force of law above an ordinary legislation, it remains subordinate to the constitution however as all law are. The charter guarantees a range of civil political, economic, and social rights that are directly relevant to mandatory vaccination.

Article 16 of the charter recognises the right of every individual to enjoy the best attainable state of physical and mental health and imposes a duty in states to take necessary measure to protect the health of their people. This provision has been interpreted by the African Commission on Human and People's rights as imposing both negative and positive obligations, including the adoption of preventive health measures. Going by this vaccination programmes fall within the scope of state duties under the charter.

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[39] *International Covenant on Economic, Social and Cultural Rights* (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, art 12.
[40] Ibid.

The charter in its article 27 states that the rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest. This particular clause acknowledges that autonomy of a person may be limited where the exercise of such autonomy would undermine collective welfare. The African commission has consistently held that limitation on rights under the charter must be satisfy standards of legality, necessity and proportionality.

4.4 The Siracusa Principles

The Siracusa Principles on the limitation and Derogation provisions in the ICPR are a set of international legal guidelines, adopted by the United Nations Economic and Social Council (ECOSOC), that provide authoritative guidance on the interpretation of limitation clauses in human rights law. These principles are not legally binding, but have been widely endorsed by international bodies and courts as reflecting best practices in rights limitation.

The Siracusa principle have become the chief international instrument governing permissible human rights limitations during national emergencies. Under the Siracusa principle, limitations on rights for reason of public health are permissible only where it is provided for by law, pursues a legitimate objective, is necessary in a democratic society, and is proportionate to the aim pursued. The Siracusa principle provides that 'Public health may be invoked as a ground for limiting certain rights in order to allow a state to take measures dealing with a serious threat to the health of the population or individual members of the population. These measures must be specifically aimed at preventing disease or injury or providing care for the sick and injured.'[41]

[41] Art. 25 The Siracusa Principles on the limitation and Derogation provisions in the ICPR.

The principle emphasise that necessity requires more that convenience or expediency. It must be demonstrated that the measure taken responds to a pressing public health need and that no less restrictive alternative would achieve the same objective. Applied to mandatory vaccination in Nigeria, Siracusa Principles underscore the importance of legislative clarity and procedural safeguards, and the need for mandatory vaccination to be grounded in legislation, informed by public health evidence, limited in scope and duration, and subject to review are more likely to comply with the international standards

5.0 JUSTIFICATIONS, LIMTATIONS AND PROPORTIONALITY ANALYSIS

5.1 Justification for Mandatory Vaccination

The major justification for mandatory vaccination lies in the protection of public health, particularly in the context of communicable diseases capable of rapid transmission and significant morbidity or mortality.[42] Vaccination occupies a distinctive position within public health interventions because its benefits aren't limited to the vaccinated individual, but to the broader community through a mechanism knows as 'herd immunity'.[43] This aspect distinguishes vaccination from other forms of medical treatment and provides a basis for state intervention where individual refusal can pose a risk to others.

From a constitutional perspective, the protection of public health is a recognised legitimate aim under section 45 of the constitution. The states authority to act is further reinforced by its positive obligations

[42] *Jacobson v Massachusetts* 197 US 11 (1905); *Vavřička and Others v Czech Republic* (2021) 73 EHRR 5; Lawrence O Gostin, *Public Health Law: Power, Duty, Restraint* (2nd edn, University of California Press 2008).
[43] Monica Neagu, 'The Bumpy Road to Achieving Herd Immunity in COVID-19' (2020) 46(1) *Journal of Immunoassay and Immunochemistry* 928–945, 929.

under international and regional human rights instruments, including the ICESCR and the African Charter, which provide for the adoption of measures aimed at preventing and controlling epidemic diseases.

In the context of infectious disease, refusal to vaccinate is not a decision that affects a person only, it increases the risk of transmission and disproportionately endangers vulnerable populations, including those who cannot be vaccinated for medical reasons. This rationale has been judicially accepted in comparative jurisprudence, most notably *Jacobson v Massachusetts*[44], where the United Staes Supreme Court upheld compulsory vaccination as a legitimate exercise of the states police power in the face of an epidemic threat. However, the mere fact that there is a legitimate justification does not defeat the need for constitutionality.

5.2 Legal Basis and the Requirement of Legality

The first and most stringent requirement in assessing the validity of mandatory vaccination is legality. Under section 45 of the constitution any restriction must be by law, this demands a clear legislative foundation that is accessible, precise, and foreseeable in its application. In the Nigerian context, reliance on executive directives or emergency regulations issued without actual legislative oversight raises serious constitutional concerns. The absence of a comprehensive and contemporary public health statute governing vaccination mandates undermines its legality. The colonial-era public health law the Quarantine Act, is very ill-suited to serve as the legal basis for modern vaccination policies that implicate complex human rights considerations.

[44] 197 U.S. 11 (1905).

5.2.1`Necessity and Least Restrictive Means

Necessity entails that mandatory vaccination be shown to respond to a pressing public health need and that intrusive alternatives are inadequate to achieve the same objective. This requires an assessment of the gravity of the threat to public health, how effective the vaccination would be in addressing that threat and the availability of alternative measures like public education, voluntary vaccination programmes, targeted restrictions, or non-coercive incentives.

Where there is voluntary uptake and the disease has been controlled, the imposition of mandatory vaccination may be difficult to justify as necessary. However, where evidence shows that there is a mass refusal of vaccination and an imminent risk of outbreak, the need for necessity may be satisfied.[45]

5.2.2 Proportionality and Balancing of Competing Interests

Proportionality requires a balance of the benefits of mandatory vaccination against its impact on rights of citizens. In some cases, even where the measure is lawful, it may still be unconstitutional if it imposes an excessive burden on the people.

The factors to consider include the nature and severity of the disease, the effectiveness and safety profile of the vaccine, the extent of the compulsion involved and the availability of exemptions. A mandatory vaccination scheme should reasonably provide for exceptions, clear procedure for review and impose proportionate sanctions.[46]

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[45] Charrier, L., Garlasco, J., Thomas, R., Gardois, P., Bo, M., & Zotti, C. M. (2022). An Overview of Strategies to Improve Vaccination Compliance before and during the COVID-19 Pandemic. International journal of environmental research and public health, 19(17), < https://doi.org/10.3390/ijerph191711044> . accessed 06 January 2026.

[46] Ibid.

Putting it in the Nigerian context, the socio-economic implications of enforcement mechanism must be put under scrutiny. Policies that would affect access to education, employment or essential services on vaccination status may be disproportionate and negatively affect vulnerable populations and increase existing inequalities in society. Proportionality should also require a time limitation, as mandatory vaccination should not be indefinite, they must be subject to periodic review to ensure they remain justifies in light of evolving scientific knowledge.

6.0 COMPARATIVE AND JURISPRUDENTIAL INSIGHT

It is important to reiterate that comparative analysis and jurisprudence has long been employed by Nigerian courts has persuasive and non-binding, especially where domestic jurisprudence is still evolving. While foreign decisions do not form part of Nigerian law, they may shed light on shared constitutional values, especially in areas such as human rights limitation. It is against this backdrop that I shall illuminate the selected comparative jurisprudence.

6.1 European Court of Human Rights: Vavřička and Others v Czech[47]

The decision in the European Court of Human Rights in Vavřička and Others v Czech, provides a contemporary and carefully reasoned judicial treatment of mandatory vaccination within a human right framework.

The case concerned six joined applications brought by Czech nationals challenging the consequences of non-compliance with statutory childhood vaccination requirement under Czech law. The Public Health

[47] European Court of Human Rights Applications Nos. 4721/13, 3867/14, 73094/14, 19306/15, 19298/15 and 43883/15.

Protection Act mandated routine vaccinations for children with exemptions permitted only on medical grounds non-compliance attracted sanctions including administrative fines and denial of access to preschool facilities of unvaccinated children. The applicants alleged that these measures violated their rights under Article 8 of the European Convention on human rights (right to private life, bodily integrity, parental autonomy and freedom of conscience). Some applicants additionally relied on Article 9 (Freedom of religion and belief) and Article 2 of Protocol No. 1 (right to education).

The main issue was whether the statutory duty of childhood vaccination and its enforcement constitutes and interference to rights and whether such interference was justified. By a majority of 16 votes to 1, the Grand chamber held that there had been no violation of Article 8 &9 or Article 2 of Protocol No. 1.

The ratio decidendi of the court was though the vaccination ordinarily constituted an interference with the applicants right to respect for private life, as it directly concerned bodily integrity and parental decision-making. However, the interference was justified. The held the measures firstly were in accordance with the law, being grounded in an Act of parliament. Secondly the measure pursued the legitimate aims of protecting public health and the rights of others, and noted that the court further recognised the best interests of the child and the importance of the social solidarity. Further the court attached weight to the fact that the Czech system did not involve forced vaccination, but rather relied on direct consequences.

6.2 South African Constitutional Jurisprudence Approach on Rights Limitation

The South African constitutional law provides a particular relevant framework due to shared historical influences, constitutional

supremacy, and an explicit limitation clause. *Section 36 of the Constitution of the Republic of South Africa* sets out a structured proportionality test for limiting rights. It sets out the proportionality test for limiting rights which requires the consideration of the nature and extent of the limitation, the relation between the limitation and its purpose, and the availability of less restrictive means.[48]

South African courts have consistently applied this framework to assess state action in contexts involving public interest regulation and individual rights. Although there is little to no direct jurisprudence on mandatory vaccination, the broader approach to public health and emergency regulation demonstrates a commitment to evidence-based justification and legislative clarity. During public health emergencies, South African courts have scrutinized executive measures to ensure compliance with statutory authority and constitutional standards, striking down regulations that were found to be irrational or disproportionate.

6.3 Lessons for Nigeria

The comparative insights drawn from European and South African jurisprudence provide several key lessons for Nigeria. The first is that mandatory vaccination measure are more likely to withstand human rights scrutiny where they are anchored in clear and comprehensive legislation rather that ad hoc executive action. The second is need for proportionality which is a practical evaluative tool that requires attention to exemptions, safeguards, and the real-world impact of enforcement mechanism.

[48] Slungu J Thobela, 'Revisiting Vaccine Mandates and Human Rights in South Africa' (2025) 5 Turf Law Journal 1, 13.

7.0 RECOMMENDATIONS

The analysis undertaken in this article shows that constitutional mandatory vaccinations still border on sensitive place in the Nigerian legal system. The Nigerian jurisprudence affirms personal autonomy in medical decision making but it also recognises that autonomy is not absolute. The task lies in designing a legal framework that accommodated both individual rights and collective welfare.

Against this backdrop, several recommendations emerge.

1. The enactment of a comprehensive Public Health Emergency Act by the National Assembly, that is tailored to fit contemporary realities such as the COVID-19. Such act, must utilise the Nigeria Centre for Disease Control in the administration of its provisions. This legislation must clearly define the scope of state powers during health emergencies, establish the various conditions under which mandatory vaccination may be necessary and also provide human rights safeguards like medical exemptions, transparent decision-making process, periodic review as an accessible avenue for legal challenge.
2. Mass sensitization and Orientation by healthcare service providers and workers through the instrument of the Nigeria Centre for Disease Control, aimed at increasing the awareness and importance of vaccines in the combat against vaccine hesitancy.
3. Coordination between the federal and state authorities aimed at sustaining public engagement and transparency when it comes too mandatory vaccination laws to ensure coherence in public health governance.

8.0 CONCLUSION

In conclusion, the constitutional validity of mandatory vaccination in Nigeria depends not merely on the urgency of public threats, but on the quality of the legal framework through which the state responds. Once Nigeria can anchor public health interventions in valid legislations that reflect constitutional values and international human rights standards, Nigeria can reconcile individual autonomy with public health and thereby straighten the foundation of democratic public health governance.