
The March to Immunity or Impunity: The Mandatory COVID-19 Vaccination Policies in Asia and their Human Rights Implications

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In the global race to herd immunity, several Asian nations have implemented the mandatory vaccination of their citizens against COVID-19. Central to this mandate is the seminal human rights issue of balancing individual liberties vis-à-vis the society's right to health. In this light, this paper conducted a case study on the mandatory vaccination policies of nine Asian nations clustered according to the six major regions of the continent to encompass the vastness and diversity of Asia. Through a discussion infused with causal layered analysis (CLA), which comprehensively oscillates from the systemic causes to the civilizational perspectives, the case studies have shown that the oft-mentioned phenomenon of vaccine hesitancy and the invocation of police powers of the state have deep-seated legal, social, political, cultural, and civilizational human rights contexts—authoritarianism, militarization, and religious philosophies, among others. In turn, the mandatory vaccination policies of these countries are generally marked by vastly disproportional penalties of hefty fines and heavy-handed sanctions, the absence of enabling laws, and their adherence to the securitization of the pandemic. In response, this paper advocates that mandatory vaccination must instead be recognized as a policy of last resort. Ultimately, should the nations of Asia continue to pursue mandatory vaccination, just legislation combined with absolute transparency must be at the heart of such pursuit to ensure that the path to herd immunity is not a path of impunity.

Introduction

In the face of the unrelenting wrath of COVID-19, which has already infected millions and claimed hundreds of thousands of lives in Asia, Philippine President Rodrigo Duterte is equally unrelenting in his populist bravado—“if you’re a person who’s not vaccinated and a potential carrier, to protect the people, I have to sequester you in jail.”¹ Less severe than incarceration, Indonesian President Joko Widodo’s presidential regulation zeroed in on the denial of social welfare services and the imposition of fines on vaccine refusers.² These contemporary public pronouncements and policies have renewed the discourse and debate surrounding mandatory vaccination, which can be traced as far back as two centuries ago.³

In the mid-nineteenth century, the practice of compulsory vaccination started in Europe, particularly in England, as a response to the threat of smallpox. Due to the relatively lower fatality rates recorded in regions where such a mandate is in place, many countries eventually followed suit—from Europe to America.⁴ Throughout the years, there were key instances wherein the fundamental issues surrounding mandatory vaccination were discussed and settled, such as the United States Supreme Court landmark case *Jacobson v. Massachusetts* in 1905,⁵ which “established the constitutionality of state compulsory vaccination laws when they are ‘necessary for the public health or the public safety,’”⁶ and the recent decision of the European Court of Human Rights (ECHR) which ruled that mandatory vaccination can be regarded as “necessary in a democratic society” most especially

1 Andreo Calonzo, “Philippine President Duterte Threatens to Jail People Who Refuse COVID-19 Vaccine,” *Time*, June 22, 2021, <https://time.com/6074668/duterte-jail-refuse-vaccines-philippines/>.

2 Usman Hamid, “Mandatory vaccination will not solve Indonesia’s Covid-19 problem,” *Indonesia at Melbourne*, February 23, 2021, <https://indonesiaatmelbourne.unimelb.edu.au/mandatory-vaccination-will-not-solve-indonesias-covid-19-problem/>.

3 Rajaie Batniji, “Historical evidence to inform COVID-19 vaccine mandates,” *Correspondence* 397, no.10276 (2021): 791, [https://doi.org/10.1016/S0140-6736\(21\)00267-1](https://doi.org/10.1016/S0140-6736(21)00267-1).

4 Batniji, “Historical evidence to inform COVID-19 vaccine mandates.”

5 *Jacobson v. Massachusetts*, 197 U.S. 11 (1905).

6 “Toward a Twenty-First-Century *Jacobson v. Massachusetts*,” *Harvard Law Review* 121, no.7 (2008): 1820, <http://www.jstor.org/stable/40042718>.

if voluntary immunization proves to be futile in reaching herd immunity.⁷ However, these decisions were promulgated in the West—with a different context, a different public health issue, and a different set of vaccines as opposed to the present-day Asia under the lingering threat of COVID-19.

Many leaders in Asia have expressed their willingness to mandate vaccination against COVID-19. In fact, there are already countries in the continent implementing the said mandate. Such a compulsory approach is defended as a justifiable state action in response to rampant vaccine hesitancy⁸ and the worrisome pervasion of anti-vaccine sentiment that was first prevalent in the West and has now reached Asia.⁹ This vigor to vaccinate as much as possible also stems from the earnest hopes of returning to a pre-pandemic world. This is the underlying higher cause of all these efforts—the attainment of the necessary herd immunity for the advancement of public health and safety. However, should this mandatory vaccination policy be adopted by the entire region, it would have sheer magnitude and far-reaching human rights implications since majority of the world remain unvaccinated. This establishes the case that the balancing of the individual liberties of billions of Asians vis-à-vis the collective right to health is an emergent issue that warrants evaluation through the lenses of international studies and human rights.¹⁰

This paper endeavors to contribute to this discourse by conducting a case study on the Asian countries which mandate vaccination against COVID-19, from the vantage point of human rights. Due to the vastness of Asia, this study sampled and clustered these countries according to their geographic regions as presented in Table 1. The diversity of these countries and the fact that there are already several Asian nations mandating vaccination

7 Jorge Liboreiro & Christopher Pitchers, “How a Court Ruling Lays the Ground for Mandatory COVID-19 Vaccination,” *Euro News*, April 22, 2021, <https://www.euronews.com/2021/04/13/how-a-court-ruling-lays-the-ground-for-mandatory-covid-19-vaccination>.

8 Yen Lee, “Charts Show Asia is Far Behind the U.S. and Europe in Covid Vaccinations,” *CNBC*, June 4, 2021, <https://www.cnbc.com/2021/06/04/covid-vaccine-hesitancy-in-asia-which-lags-us-europe-as-cases-surge.html>.

9 Andreo Calonzo & Kwan Tan, “Anti-Vaxxer Propaganda Spreads in Asia, Endangering Millions,” *Bloomberg*, July 1, 2021, <https://www.bloomberg.com/news/articles/2021-06-30/anti-vaxxer-disinformation-spreads-in-asia-endangering-millions>.

10 Jose dos Santos et al., “Collision of Fundamental Human Rights and the Right to Health Access During the Novel Coronavirus Pandemic,” *Frontiers in Public Health* (2021), <https://doi.org/10.3389/fpubh.2020.570243>.

raise both the representativeness of and urgency for this exploration.

Table 1: Asian Countries that Mandate COVID Vaccination (Clustered by Region)

Region	Countries
Central Asia	Tajikistan, Turkmenistan
East Asia	China and its special administrative region Hong Kong
South Asia	Pakistan
Southeast Asia	Indonesia, Cambodia
Western Asia	Saudi Arabia, United Arab Emirates
North Asia	Russia

A deeper human rights perspective on these policies and practices is infused through a discussion based on the causal layered analysis (CLA), which comprehensively oscillates through various levels of analysis—from the relatively superficial layers of litany and systemic causes to the intimately deeper layers of worldview and myth and metaphor.¹¹ It is the integration of these layers, especially the civilizational and cultural perspectives, that makes this paper a novel contribution to the growing scholarly literature on compulsory vaccination.

In this paper, each case study commences with the introduction and contextualization of the region and its human rights situation and then proceeds to discuss the vaccine mandates imposed by the sampled countries—tracing its antecedents, scrutinizing its mechanism, and delving into the relevant social, political, and cultural perspectives with the end in view of delineating the human rights implications of these measures. The commonalities of these implications are noted in a review of the proposed human rights frameworks for mandatory vaccination. Guided by these principles, this paper closes with a set of policy recommendations for a more human rights-friendly vaccination campaign in Asia.

11 Sohail Inayatullah, “Causal Layered Analysis: Poststructuralism as method,” *Futures* 30, no. 8 (1998): 815-829, [https://doi.org/10.1016/S0016-3287\(98\)00086-X](https://doi.org/10.1016/S0016-3287(98)00086-X); Sohail Inayatullah, *The Causal Layered Analysis (CLA) Reader: Theory and Case Studies of an Integrative and Transformative Methodology* (Taipei: Tamkang University Press, 2004); Sohail Inayatullah, “Six pillars: futures thinking for transforming,” *Foresight* 10, no.1 (2008): 4-21, <https://doi.org/10.1108/14636680810855991>.

Central Asia

This region comprises five former Soviet Union states: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan, which underwent a significant social, political, and economic transition, albeit diverse in their levels of transition. Scholars noted that Central Asia is interesting to study because of its rich but understudied history and background.¹² Unfortunately, the human rights situation in this region has been a frequent subject of criticism from the global community. Much of these are due to the ruling authoritarian regimes in these countries, which perpetuate the remnants of the bygone Soviet era.¹³ During this public health crisis, the Human Rights Watch lambasted the region for failing to remain steadfast to human rights standards in their pandemic response, particularly in the aspects of transparency, free speech, and mobility. From this region came two of the first countries which mandated their citizens aged 18 and above to be inoculated against COVID-19.¹⁴

Tajikistan announced the move in light of a new outbreak and lagging voluntary vaccination uptake.¹⁵ Looking back, the Tajikistan government has long delayed the recognition of the threat of COVID-19 despite experiencing spikes in pneumonia cases. This state practice of denial had set the stage for the uncovering of the systemic defects in their health care infrastructure which are further exacerbated by the pandemic.¹⁶ This is borne out of the country's decades of crisis of ineffective governance under the strongman

12 Uuriintuya Batsaikhan and Marek Dabrowski, "Central Asia at 25," *Bruegel Policy Contribution*, no. 13 (2017): 1-22, <https://www.bruegel.org/wp-content/uploads/2017/05/PC-13-2017.pdf>.

13 Amina Afzal, "Human Rights in Central Asia," *Strategic Studies* 24, no.1 (2004): 152-176, <http://www.jstor.org/stable/45242500>.

14 Human Rights Watch, "Central Asia: Respect Rights in Covid-19 Responses 2020," *Human Rights Watch*, April 23, 2020, <https://www.hrw.org/news/2020/04/23/central-asia-respect-rights-covid-19-responses>.

15 BNO News, "Tajikistan Becomes First Country to Make COVID-19 Vaccines Mandatory," *BNO News*, July 3, 2021, <https://bnonews.com/index.php/2021/07/tajikistan-becomes-first-country-to-make-covid-19-vaccines-mandatory/>.

16 International Partnership for Human Rights, "Human Rights Impact Assessment of the COVID-19 Response in Tajikistan," *International Partnership for Human Rights* (2020), <https://www.iphronline.org/wp-content/uploads/2020/09/Covid-19-TAJ-final-upd.-2.09-1.pdf>.

Emomali Rahmon who has been ruling the country since the 1990s.¹⁷ His grip on power is so tight that even the religion of Tajikistanis is not exempted from it. Rahmon has always zeroed in on the marginalization of Islam in the name of secular politics.¹⁸ This could have severe implications on their mandatory vaccination efforts since the *halal* status—the permissibility of a product under Islamic law—of the vaccines is one of the leading concerns of Muslims.¹⁹ In addition, Kadri pointed out that such Islam-related hesitancy also stems from the suspicion of Muslims on the hostility of significant personalities towards Islam.²⁰ Therefore, it is clearer communication and information, not an imposition, that will increase the vaccination uptake, as affirmed by Klassen et al., who researched about childhood vaccination hesitancy in Tajikistan and concluded that “in this traditional culture, there is a strong need for tailored communication campaigns to address vaccine hesitancy while continuing to address systems-level barriers.”²¹

In Turkmenistan, the compulsory vaccination policy is branded by its health ministry as a preventive action since the country remains one of the very few that are yet to record a single COVID-19 positive case.²² However, there are various accounts debunking this claim, such as the case of the Turkish diplomat assigned in the country—Kemal Uchkun, who

17 Philip Shishkin, “Central Asia’s Crisis of Governance,” *Asia Society*, (2012): 1-40, https://asiasociety.org/files/pdf/120215_central_asia_crisis_governance.pdf.

18 Erica Marat, “National Ideology and State-building in Kyrgyzstan and Tajikistan,” *Central Asia-Caucasus Institute & Silk Road Studies Program* (2008), <https://www.files.ethz.ch/isn/105092/January%2008.pdf>.

19 Associated Press, “Halal Status of COVID-19 Vaccine Worries Muslims,” *Voice of America*, December 20, 2020, <https://www.voanews.com/covid-19-pandemic/halal-status-covid-19-vaccine-worries-muslims>.

20 Sadakat Kadri, “For Muslims Wary of the Covid Vaccine: There’s Every Religious Reason Not to Be,” *The Guardian*, February 18, 2021, <https://www.theguardian.com/commentisfree/2021/feb/18/muslims-wary-covid-vaccine-religious-reason>.

21 Ann Klassen et al., “Formative Research to Address Vaccine Hesitancy in Tajikistan,” *Vaccine* 39, no. 10 (2021): 1516, <https://doi.org/10.1016/j.vaccine.2021.01.033>.

22 Agence France Presse, “Turkmenistan Orders Compulsory Vaccinations,” *Barron’s*, July 7, 2021, <https://www.barrons.com/news/turkmenistan-orders-compulsory-vaccinations-01625640606>.

died after exhibiting COVID-19-like symptoms.²³ While his widow is blaming Turkish officials for their supposed negligence, one column posits that it is the very healthcare system of Turkmenistan that must be held accountable for ignoring the crisis itself in the name of reputation.²⁴ Turkmenistan's authoritarian president Gurbanguly Berdimuhamedov, a dentist by training and a former health minister, even denied the very existence of COVID-19 and, worst, prescribed numerous unscientific remedies.²⁵ To be fair, this is not specific to Berdimuhamedov, but is, in fact, an abhorrible extension of the established detrimental link of dictatorship with health outcomes manifested in the two areas that remain relevant today amid the pandemic: the state's secretiveness to the extent of denying the crisis and a neglected public health system which began with their first president.²⁶ In this context, the absence of data on COVID-19 could be interpreted as the Turkmenistan government's nonrecognition of the right to health of its citizens.²⁷ It is then confusing why a country, which reportedly arrests people on the basis of uttering the word "coronavirus"²⁸ is mandating the vaccination of all its citizens against COVID-19. One plausible explanation is that the various informal accounts are true—Turkmenistan is being ravaged by the pandemic, especially the more contagious coronavirus variants. And the government sees the draconian mandatory vaccination policy as a desperate move to bail out of the consequences of refusing to grasp the gravity of this crisis, even at the

23 Bruce Pannier, "Why Is the World Allowing Turkmenistan to Deny It Has the Coronavirus?" *RadioFreeEurope RadioLiberty*, January 1, 2021, <https://www.rferl.org/a/turkmenistan-coronavirus-fiction-turkey/31029363.html>.

24 "Turkmenistan: The deadly price of lies," *Eurasianet*, December 22, 2020, <https://eurasianet.org/turkmenistan-the-deadly-price-of-lies>.

25 Amy Mackinnon, "Turkmenistan's Secretive Strongman Remains in Denial About the Pandemic," *Foreign Policy*, April 10, 2020, <https://foreignpolicy.com/2020/04/10/turkmenistan-coronavirus-pandemic-denial-strongman-berdimuhamedov/>.

26 Bernd Rechel and Martin McKee, "The Effects of Dictatorship on Health: The Case of Turkmenistan," *BMC Medicine* 5, no. 21 (2007): 1-10, doi:10.1186/1741-7015-5-21.

27 Aynabat Yaylмова, "COVID-19 in Turkmenistan: No Data, No Health Rights," *Human Rights Journal* 22, no. 2 (2020): 325-327, <https://cdn1.sph.harvard.edu/wp-content/uploads/sites/2469/2020/12/Yaylmovova.pdf>.

28 Sophie Lewis, "This Central Asian Country Will Reportedly Arrest You for Saying the Word 'Coronavirus'," *CBS News*, April 1, 2020, <https://www.cbsnews.com/news/coronavirus-turkmenistan-bans-word-coronavirus-arrest/>.

expense of its citizens' human rights, which it has consistently taken for granted.

In general, vaccination efforts are progressing slowly in the Central Asian region due to the scarcity of vaccine supplies, poor vaccination campaigns, and vaccine hesitancy.²⁹ As the pandemic continues to exacerbate poverty and inequality in Central Asia through trade disruptions resulting to the declining consumption, investment, migrant remittances, oil export revenues, and gross domestic product (GDP) in its entirety,³⁰ the utilization of the authoritarian political macro-structure to boost vaccine uptake would seem to be a noble exercise of state police power. However, with the long record of human rights abuses in the region,³¹ there is a high risk that these mandatory vaccination policies would result in the lengthening of that record.

East Asia

This region is the home of China, Taiwan, Japan, South Korea, North Korea, and Mongolia.³² It is often said that East Asia has its own salient human rights perspective distinct from that of the Western view, which is conceptualized without due regard to the input from this region.³³ However, in 2018, Amnesty International flagged the deterioration of human rights in the region marked by the repression of the civil society, particularly the defenders of human rights.³⁴ From this region, China and its special administrative region,

29 Catherine Putz, "Vaccinations Progress Slowly in Central Asia," *The Diplomat*, May 7, 2021, <https://thediplomat.com/2021/05/vaccinations-progress-slowly-in-central-asia/>.

30 George Bouma & Sheila Marnie, "COVID-19 and Central Asia: Socio-economic Impacts and Key Policy Considerations for Recovery," *United Nations Development Programme*, 2020, https://www1.undp.org/content/dam/rbec/docs/COVID19report_CentralAsia.pdf.

31 Mitch Riding, "COVID-19 in Central Asia: A Dictator's Dream?" *Human Rights Pulse*, July 2, 2020, <https://www.humanrightspulse.com/mastercontentblog/hspot0kq2kp6fueinl8omnc7cb22s0>.

32 Michael Kort, *The Handbook of East Asia* (Minneapolis, Lerner Publishing Group: 2005), 7.

33 Daniel Bell, "The East Asian Challenge to Human Rights: Reflections on an East West Dialogue," *Human Rights Quarterly* 18, no. 3 (1996): 641-667, <http://www.jstor.org/stable/762475>.

34 Amnesty International, "Rights Today in East Asia – 2018," *Amnesty International*, 2018, <https://www.amnesty.org/en/latest/research/2018/12/rights-today-2018-east-asia/>.

Hong Kong, have instituted certain degrees of mandatory vaccination.

When the world first confronted COVID-19 and struggled to address its earlier phases of outbreaks, China, despite being the original pandemic epicenter, epitomized recovery as their reported cases and fatalities were remarkably low—close to zero—although some were skeptical. For instance, Wang opines that this success could be attributed to the country's disregard for human rights, such as how the tight control on dissent rendered a subservient populace to government orders.³⁵ Nevertheless, China's fast recovery could also be due to its staggering vaccination pace, which McGregor unpacks as a manifestation of the advantages of its authoritarian governance that places not as much primacy on individual liberties compared to the United States wherein such values are contributing to vaccine hesitancy.³⁶ It is in the localities of China that we can see vaccine mandates imposed, albeit not uniformly. There are provinces that deem a vaccinated family as a requirement for a child to return to school physically. At the same time, other localities prohibit the unvaccinated from going to leisure venues such as hotels and restaurants.³⁷ The director of Peking University's Research Center for Human Rights and Humanitarian Law questioned the legality of these policies and referred to them as "de facto mandatory vaccinations" due to the absence of an enabling law.³⁸ Even the public protested on China's social media site *Weibo* against these measures in light of local reports that some were being forced to get the jab in their workplace despite reasonable personal concerns such as pregnancy.³⁹ These local policies were eventually

35 Yaqiu Wang, "China's Covid Success Story Is Also a Human Rights Tragedy," *MSNBC*, January 26, 2021. https://www.msnbc.com/opinion/china-s-covid-success-story-also-human-rights-tragedy-n1255618?icid=msd_topgrid.

36 Grady McGregor, "How China Went from Laggard to Leader in Distributing COVID-19 Vaccines," *Fortune*, May 27, 2021, <https://fortune.com/2021/05/27/china-vaccination-rate-herd-immunity-campaign/>.

37 BBC News, "Chinese Authorities Say Unvaccinated Parents Can't Send Children to School," *BBC News*, July 16, 2021, <https://www.bbc.com/news/world-asia-china-57859356>.

38 Ben Wescott, "Unvaccinated People in Parts of China to Be Denied Access to Hospitals, Parks and Schools," *CNN*, July 16, 2021, <https://edition.cnn.com/2021/07/15/china/vaccine-china-restrictions-zhejiang-jiangxi-intl-hnk/index.html>.

39 John Feng, "China Forcing People to Take Vaccines against Their Wishes, Reports Suggest," *Newsweek*, March 31, 2021, <https://www.newsweek.com/china-forcing-people-take-vaccines-against-their-wishes-reports-suggest-1580116>.

rebuked by the central government.⁴⁰ This turn of events could be regarded as a manifestation of the hierarchical trust in China, wherein the “central government aims to boost its own authority, direct popular discontent toward local governments, resolve social conflicts, reinforce central control of subordinate governments, and ultimately maintain the regime’s stability.”⁴¹ In this sense, the vaccine mandates imposed by the local governments could be seen as a pilot test on the people’s reception to it, which brought to light the central human rights issue in this case—the freedom of choice.

In Hong Kong, the compulsory vaccination policy governs workers in the civil service, education, and health sectors. Low voluntary vaccine uptake motivated its imposition as its chief executive Carrie Lam believes that non-health-related reasons for vaccination refusal cannot be tolerated by a responsible government.⁴² In May 2021, after a domestic worker tested positive of a particular COVID-19 variant, city officials further enhanced the mandatory vaccination policy to encompass foreign domestic workers such that vaccination and testing became grounds for the renewal of their contracts. This became a subject of criticisms due to its discriminatory tendencies and was instead immediately reviewed.⁴³ However, in response to the recent surge of cases in February this year, Hong Kong finally shifted its strategy from “vaccine bubble,” wherein workers in certain establishments are required to be vaccinated, to “vaccine pass” which requires that all who are entering public premises be vaccinated except if one is ineligible to get the jabs due to age or health reasons validated by

40 Global Times, “China’s Top Health Authority Rectify Local Mandatory Vaccination Orders, Stressing Voluntary Principle,” *Global Times*, July 17, 2021, <https://www.globaltimes.cn/page/202107/1228884.shtml>.

41 Zhenhua Su et al., “Constructed Hierarchical Government Trust In China: Formation Mechanism And Political Effects,” *Pacific Affairs* 89, no. 4 (2016): 794, <http://www.jstor.org/stable/44874326>.

42 Channel News Asia, “Hong Kong Announces Compulsory COVID-19 Vaccines for Key Sectors,” *Channel News Asia*, August 2, 2021, <https://www.channelnewsasia.com/asia/hong-kong-announces-compulsory-covid-19-vaccines-key-sectors-2083991>.

43 Chloe Lo & Felix Tam, “Hong Kong Reviews Mandatory Vaccination for Domestic Workers,” *Bloomberg*, May 4, 2021, <https://www.bloomberg.com/news/articles/2021-05-04/hong-kong-reviews-mandatory-vaccinations-for-domestic-workers>.

a doctor.⁴⁴ This policy was challenged in court which in the end upheld the vaccine pass as it rests on a “reasonable balance” between the government’s duties of safeguarding public health and respecting individual liberties.⁴⁵

The rhetoric that a responsible government is worthy of imposing mandatory vaccination appears to work both in Hong Kong and China. Ma suggests that this stems from the fundamental distinction between the Chinese and Western conceptions of human rights, with the former placing primacy on the collective as opposed to the latter’s emphasis on individual civil and political rights.⁴⁶ This constitutes the case for a Confucian perspective on human rights that “underscores self-cultivation, family cohesiveness, economic well-being, social order, political justice, and cultural flourishing.”⁴⁷ Although Confucianism eroded during the New Culture Movement and the Cultural Revolution, it was never eradicated in China as its values remain integrated into the traditional culture and everyday way of life of the Chinese, and its influence on molding the East Asian cultural sphere remains evident.⁴⁸ This deeper civilizational perspective echoes the urgency expressed by

44 Hong Tran & Jennifer C.W. Tam, “The COVID-19 ‘Vaccine Pass’ and Proposed Amendments to the Hong Kong Employment Ordinance,” *Mayer Brown*, February 9, 2022, <https://www.mayerbrown.com/en/perspectives-events/publications/2022/02/the-covid-19-vaccine-pass-and-proposed-amendments-to-the-hong-kong-employment-ordinance>.

45 Candice Chau, “Covid-19: Hong Kong court dismisses application to appeal against vaccine pass,” *Hong Kong Free Press*, <https://hongkongfp.com/2022/03/30/covid-19-hong-kong-court-dismisses-application-to-appeal-against-vaccine-pass/>.

46 Phil Ma, “Human Rights Regime: A Chinese Perspective,” *The Kenan Institute for Ethics at Duke University*, May 11, 2019, <https://kenan.ethics.duke.edu/the-human-rights-regime-a-chinese-perspective/>.

47 Tu Weiming, “Joining East and West: A Confucian Perspective on Human Rights,” *Harvard International Review* 20, no. 3 (1998): 44-49, <http://www.jstor.org/stable/42764005>.

48 Ruichang Wang & Ruiping Fan, “Tracing Confucianism in Contemporary China,” *Journal of East-West Thought* 9, no.4 (2019): 1-21, [https://www.cpp.edu/~jet/Documents/JET/Jet33/JET%2033%20whole%20file%20\(final\).pdf](https://www.cpp.edu/~jet/Documents/JET/Jet33/JET%2033%20whole%20file%20(final).pdf); Sebastien Billioud & Christopher Storey, “Confucianism, ‘Cultural Tradition,’ and Official Discourse in China at the Start of the New Century,” *China Perspectives*, no. 3 (71) (2007): 50–65. <http://www.jstor.org/stable/24053279>; Chen Lai, “Historical and Cultural Features of Confucianism in East Asia,” in Roger T. Ames & Peter D. Hershock (Eds.), *Confucianisms for a Changing World Cultural Order*, (Honolulu: University of Hawai’i Press, 2018), 102–111, <https://doi.org/10.2307/j.ctv3zp05k.10>.

Powles that such conception of human rights must be closely understood.⁴⁹

If the government effectively harnesses this salient cultural sense of human rights, it is highly likely that a mandatory vaccination for all Chinese people will seamlessly proceed with very few exceptions. There will certainly be doubts, however, on the manner by which the People's Republic of China (PRC) delicately balances individual rights and the society in light of the Confucian view that "the enhancement of liberty, economic efficiency, development, individual interests, and rights are highly desirable, but to pursue these values exclusively at the expense of equality, social justice, stability, the public good, and duty is ill-advised."⁵⁰ Who decides the common good? As Cerna cautions, these states cannot always invoke these historical social, and cultural contexts as a pretext for the deprivation of individual liberties demanded by the public.⁵¹

South Asia

This region is composed of Afghanistan, Bangladesh, Bhutan, India, Nepal, Maldives, Pakistan, and Sri Lanka, which all share the colonial experience under the British rule. Due to this colonial exploitation, these societies are economically disadvantaged, predisposing them to issues of poverty, violence, and human trafficking, among others.⁵² The pandemic further exposed these systemic deficiencies, pushing their poorest sectors further into the margins, and leaving their healthcare workers unequipped in combatting COVID-19. This is the fatal combination of a neglected public health system and inadequate social safety nets.⁵³ Instead of urgently

49 Michael Powles, "Perspective on Human Rights in China," *New Zealand International Review* 36, no. 2 (2011): 2-5, <http://www.jstor.org/stable/45235441>.

50 Weiming, "Joining East and West: A Confucian Perspective on Human Rights," 49.

51 Christine Cerna, "East Asian Approaches to Human Rights," *Proceedings of the Annual Meeting (American Society of International Law)* 89 (1995): 152-157, <https://www.jstor.org/stable/25658904>.

52 Shveta Dhaliwal, "Development of South Asian Human Rights Culture: The Role of South Asian Association for Regional Cooperation (SAARC)," *The Indian Journal of Political Science* 69, no. 3 (2008): 565-575, <http://www.jstor.org/stable/41856445>.

53 Amnesty International, "South Asia: COVID-19 Hits Marginalized Hardest as Pandemic Used to Escalate Repression," *Amnesty International*, April 6, 2021, <https://www.amnesty.org/en/latest/news/2021/04/south-asia-covid-19-hits-marginalized-hardest-as-pandemic-used-to-escalate-repression/>.

resolving these pressing concerns, several South Asian nations took advantage of this crisis as evidenced by their weaponization of security forces and infringement on the freedom of expression supposedly to combat fake news.⁵⁴ As South Asia continues to grapple with vaccine scarcity,⁵⁵ one country from this region imposes vaccine mandate to a certain degree—Pakistan.

Vaccination has become a requirement in both public and private workplaces in Pakistan.⁵⁶ The National Command and Operations Centre (NCOC), a military-run organization that heads the country's pandemic response, also announced that the unvaccinated would be prohibited from entering establishments such as malls and schools starting August 2021. The sectors of education, public transportation, and retail have also been mandated to get vaccinated.⁵⁷ There was even one Pakistani province that threatened to block the cellphone SIM cards of the unvaccinated. Worse, in response to the sudden spike of cases at the end of January 2022, one needs to be fully vaccinated to enter the mosques for praying which earned the ire of religious leaders and worshipers.⁵⁸ These measures are claimed to be a response to the problematic vaccine hesitancy, which is so rampant

54 Asian Forum for Human Rights and Development, "Human Rights in South Asia in Times of Pandemic," *FORUM-ASIA* (2020), https://www.forum-asia.org/uploads/wp/2020/11/Forum-Asia_Human-Rights-in-South-Asia-in-Times-of-Pandemic_November-24.pdf.

55 Emily Schmall et al., "Despite the G7 Pledge of Global Aid, South Asian Countries Still Scramble for vaccines," *The New York Times*, June 17, 2021, <https://www.nytimes.com/2021/06/17/world/south-asia-covid-vaccines.html>.

56 Sana Jamal, "COVID-19: Pakistan Makes Vaccination Mandatory for Private, Public Sector Staff," *Gulf News*, June 9, 2021, <https://gulfnews.com/world/asia/pakistan/covid-19-pakistan-makes-vaccination-mandatory-for-private-public-sector-staff-1.79789388>.

57 Shankhyaneel Sarkar, "Pakistan Says Covid Vaccination Must for Air Travel; Announces New Restrictions," *Hindustan Times*, July 29, 2021, <https://www.hindustantimes.com/world-news/pakistan-says-covid-vaccination-must-for-air-travel-announces-new-restrictions-101627565331876.html>.

58 Zia ur-Rehman, "Pakistan says only fully vaccinated people will be allowed in mosques," *The New York Times*, January 23, 2022, <https://www.nytimes.com/2022/01/23/world/asia/pakistan-says-only-fully-vaccinated-people-will-be-allowed-in-mosques.html>.

that polio remains endemic to the country.⁵⁹ This hesitancy, however, stems from deeper historical narratives such as the fake vaccination drive launched by the Central Intelligence Agency (CIA) wherein hepatitis B vaccines were administered to Pakistani babies for the purpose of extracting blood samples in an effort to trace Osama bin Laden's family through their DNA.⁶⁰

Therefore, it can be inferred that these high rates of vaccine hesitancy are chiefly fueled by the government's failure in its information campaign⁶¹ and the lack of public trust in the country's healthcare system.⁶² As the government fails to combat disinformation and launch effective information dissemination, the vaccine mandate would merely be a band-aid solution to the rampant vaccine hesitancy in Pakistan.

Southeast Asia

This region is comprised of a diverse set of eleven countries—the 10 ASEAN states and East Timor, with the former taking part in the international human rights framework articulated in the ASEAN Human Rights Declaration (AHRD).⁶³ Despite these human rights instruments, Hooi observes that human rights violations in the region are becoming more rampant, particularly in Indonesia and the Philippines, for there is a noticeable trend toward authoritarianism and

59 Asif Shahzad, "Threats of Cellphone Blocks, Work Bans Boost Pakistan's Vaccination Rate," *Reuters*, August 5, 2021, <https://www.reuters.com/world/asia-pacific/threats-cellphone-blocks-work-bans-boost-pakistans-vaccination-rate-2021-08-05/>.

60 Karina Shah, "CIA's Hunt for Osama bin Laden Fueled Vaccine Hesitancy in Pakistan," *New Scientist*, May 11, 2021, <https://www.newscientist.com/article/2277145-cias-hunt-for-osama-bin-laden-fuelled-vaccine-hesitancy-in-pakistan/>.

61 Maria Usman, "Millions of Pakistanis Threatened with Cell Phone Cut-Off if They Don't Get a COVID vaccine," *CBS News*, June 14, 2021, <https://www.cbsnews.com/news/pakistan-covid-vaccine-punjab-threat-cell-phone-cut-off-no-vaccination/>.

62 Asad Hashim, "Vaccine Hesitancy in Pakistan Heightens Risk of COVID Resurgence," *Al Jazeera*, March 5, 2021, <https://www.aljazeera.com/news/2021/3/5/in-pakistan-vaccine-hesitancy-heightens-risk-of-covid-19-resurgence>.

63 Anthony Langlois, "Human Rights in Southeast Asia: ASEAN's Rights Regime after Its First Decade," *Journal of Human Rights* 20, no. 2 (2021): 151-157, <https://doi.org/10.1080/14754835.2020.1843144>.

militarization in their pandemic response despite being democracies.⁶⁴ Aaron refers to this as “securitization,” which advances the view of the “pandemic as a national security threat” and, in turn, leads the government to enforce repressive measures which could spill over to their mandatory vaccination efforts.⁶⁵

Through President Joko Widodo’s presidential regulation, Indonesia has already made vaccination against COVID-19 compulsory for its citizens, thereby sanctioning those who would refuse the vaccines with fines and/or deprivation of social welfare aid.⁶⁶ Since discretion on the amount of fines is afforded to local governments, its capital Jakarta charges as much as five million rupiahs (US\$356.89).⁶⁷ The contrast is stark when compared to the national poverty line set by Indonesia as of 2015, which is at a consumption outlay of 302,735 rupiahs (US\$25) per month per person.⁶⁸ This highlights the dimension of inequity in a policy with such exorbitant penalties. Furthermore, the Islamic concern about the *halal* status of the vaccines stirs the vaccine hesitancy in the country where 90 percent are Muslim.⁶⁹ This is capitalized on by the anti-vaccination movements in the country spearheaded by religious micro-influencers who bolster vaccine hesitancy through conspiracy theories. The government, meanwhile, counteracts it through censorship, leading to

64 Khoo Hooi, “Southeast Asia’s Pandemic Politics and Human Rights: Trends and Lessons,” *London School of Economics*, October 1, 2020, <https://blogs.lse.ac.uk/seac/2020/10/01/southeast-asias-pandemic-politics-and-human-rights-trends-and-lessons/>.

65 Elisha Aaron, “Coronavirus Shows the Need for a Human Rights–based Approach to Public Health Crises,” *Freedom House*, August 3, 2020, <https://freedomhouse.org/article/coronavirus-shows-need-human-rights-based-approach-public-health-crises>.

66 Wahyudi Soeriaatmadja, “Indonesia Makes COVID-19 Vaccines Compulsory, Allows Private Vaccination,” *The Straits Times*, February 16, 2021, <https://www.straitstimes.com/asia/se-asia/indonesia-makes-covid-19-vaccines-compulsory-allows-for-private-vaccination>.

67 Reuters Staff, “Indonesia Capital Warns of Big Fines for Refusing COVID-19 Vaccine,” *Reuters*, May 7, 2021, <https://www.reuters.com/article/health-coronavirus-indonesia-vaccines-idUSL4N2KO1ZD>.

68 Priasto Aji, “Summary of Indonesia’s Poverty Analysis,” *Asian Development Bank*, (2015): 3, <https://www.adb.org/sites/default/files/publication/177017/ino-paper-04-2015.pdf>.

69 Beh Yi, “Jakarta Will Fine People Who Refuse COVID Vaccines. Will It Work?,” *Thomas Reuters Foundation News*, February 23, 2021, <https://news.trust.org/item/20210223133903-1yqor/>.

the further alienation of the concerned sectors of the Indonesian society.⁷⁰ The potential of such censorship being weaponized is deleterious to freedom of expression, as exhibited by several countries in their fight against fake news.

In Cambodia, Prime Minister Hun Sen decreed mandatory vaccination for civil servants and other professions, corresponding to high infection risks identified by the health ministry. Severe penalties, such as administrative or legal action, await vaccine refusers except those with health conditions that prevent them from being vaccinated.⁷¹ Moreover, Sen deployed military medical officers for the compulsory vaccination of those in the “red zones” or the high-risk areas.⁷² The spokesman of the justice ministry defended the government’s actions on the grounds that mandatory vaccination is proportionate to the ill effects of unmanaged COVID-19 situation that could infect hundreds and claim tens of lives each day.⁷³ Nonetheless, it should be noted that in the context of Cambodia, legislative efforts, supposedly oriented towards curbing the spread of COVID-19, also advance the threat of curbing people’s freedoms. A case in point is a law that fines a maximum of US\$5,000 for those who will break out of the imposed lockdown.⁷⁴ Announcing the additional penalty of up to 20 years of imprisonment for violating quarantine regulations, the prime minister himself made a blunt excuse: “I accept being called a dictator,

70 Resty Yuniar, “In Indonesia, Anti-vaccine Messages Come with a Dose of Religion, Anti-Chinese Sentiment and Conspiracy Theories,” *South China Morning Post*, June 28, 2021, <https://www.scmp.com/week-asia/health-environment/article/3138932/indonesia-anti-vaccine-messages-come-dose-religion>.

71 Long Kimmarita, “COVID-19 Vaccination Now Obligatory,” *The Phnom Penh Post*, April 11, 2021, <https://www.phnompenhpost.com/national/covid-19-vaccination-now-obligatory>.

72 Aun Chhengpor, “Cambodia to Use Military for Mandatory Vaccinations in ‘Red Zones’,” *VOA*, April 29, 2021, <https://www.voacambodia.com/a/cambodia-to-use-military-for-mandatory-vaccinations-in-red-zones-/5871321.html>.

73 Long Kimmarita, “Officials: Mandatory Jab Policy Standard Practice in Pandemic,” *The Phnom Penh Post*, July 13, 2021, <https://www.phnompenhpost.com/national/officials-mandatory-jab-policy-standard-practice-pandemic>.

74 Sarah Johnson, “Cambodia Accused of Using COVID to Edge towards ‘Totalitarian Dictatorship,’” *The Guardian*, April 19, 2021, <https://www.theguardian.com/global-development/2021/apr/19/cambodia-accused-of-using-covid-to-edge-towards-totalitarian-dictatorship>.

but I will also be admired for protecting my people's lives."⁷⁵ This is but one manifestation of Sen's tightening grip on power, thanks to the pandemic.

Western Asia

This region consists of a plethora of nations including a majority of Middle Eastern states. With regards to international studies, Shah notes that this region's strategic location makes it a potent venue for geopolitics.⁷⁶ With regard to human rights, Devitt posits that the compatibility of Islam vis-à-vis the international human rights framework should be the first agenda in discussing human rights in this region.⁷⁷ The belief of incompatibility between Islam and human rights is motivated by the notion of human rights as a "Western colonial concept"—a claim constantly harnessed by the undemocratic regimes in the region. Nonetheless, the existence of public debates on democratization is a sign of positive development in the transition towards the appropriation of human rights in this part of Asia.⁷⁸ However, amid the pandemic, this transition seems to be running in the opposite direction as Amnesty International reported that the six member-states of the Gulf Cooperation Council (GCC), all of which are Western Asian countries, are weaponizing the threat of COVID-19 by curtailing free speech through its blanket prohibitions on disinformation, among their many other potential human rights violations.⁷⁹ In fact, three GCC member-states—Oman, Saudi Arabia, and the United Arab Emirates—are not parties to the International Covenant on Civil and Political Rights (ICCPR).⁸⁰

75 Luke Hunt, "Cambodia and Its 'Dictator' Struggle with the Pandemic," *The Diplomat*, April 14, 2021, <https://thediplomat.com/2021/04/cambodia-and-its-dictator-struggle-with-the-pandemic/>.

76 Syed Shah, "West Asia: Its Problems and Emerging Patterns," *Pakistan Horizon* 41, no. 1 (1988): 86-95, <http://www.jstor.org/stable/41394479>.

77 Rebecca Devitt, "Human Rights in the Middle East: Questions of Compatibility and Conflict," *E-International Relations* (2011): 1-9, <https://www.e-ir.info/pdf/7870>.

78 Devitt, "Human Rights in the Middle East."

79 Amnesty International, "GCC: Flawed Laws Exploited in Pandemic to Further Crush Freedom of Expression," *Amnesty International*, October 15, 2020, <https://www.amnesty.org/en/latest/news/2020/10/gcc-flawed-laws-exploited-in-pandemic-to-further-crush-freedom-of-expression/>.

80 Amnesty International, "GCC: Flawed Laws Exploited in Pandemic."

The lurking threat of Delta first prompted Saudi Arabia to ponder on vaccine mandates.⁸¹ In both public and private workplaces, all employees must be inoculated to attend work.⁸² Refusal of the job, a Saudi Arabian lawyer noted, is tantamount to gross misconduct that could lead to the outright dismissal of the employee. Businesses are forced to implement this measure because their leniency could result in penalties.⁸³ The relevant legal provision is Article 80 of the labor law of the Kingdom of Saudi Arabia, which could penalize vaccine refusal with justified dismissal on the basis that he/she “fails to perform his/her essential obligations arising from the work contract or to obey legitimate orders” since it is a “reasonable management request” in accordance with government policy.⁸⁴ Starting August 2021, all unvaccinated citizens are also not permitted to enter any establishment and ride any public transport.⁸⁵ Vaccination has also become a requirement for those who wish to take part in Umrah which is a pilgrimage to Mecca that Muslims must perform at least once in their lives.⁸⁶ Even in the midst of Saudi Arabia’s easing of COVID-19 restrictions in March 2022, these mandatory vaccination measures, particularly as a requirement to enter establishments, ride public transport, and board domestic flights, still remain and are supplemented by the requirement of a booster shot for entering public places.⁸⁷ In essence, being unvaccinated has become an overarching hindrance in one’s work, travel, and faith.

81 Stephen Kalin, “Saudi Arabia to Impose Covid-19 Vaccine Mandate,” *The Wall Street Journal*, July 27, 2021, <https://www.wsj.com/articles/saudi-arabia-to-impose-covid-19-vaccine-mandate-11627402754>.

82 Reuters, “Saudi to Make COVID-19 Vaccinations Mandatory for all Workers,” *Reuters*, May 7, 2021, <https://www.reuters.com/world/middle-east/saudi-make-covid-19-vaccinations-mandatory-all-workers-2021-05-07/>.

83 Samir Salama, “Saudi Arabia: COVID-19 Vaccine Hesitants Risk Sacking,” *Gulf News*, August 2, 2021, <https://gulfnews.com/world/gulf/saudi/saudi-arabia-covid-19-vaccine-hesitants-risk-sacking-1.81210422>.

84 Sarah Lawrence, Habib Saeed, & Turki Radain, “Employers in Saudi Arabia: Be Prepared COVID-19 Vaccinations to Be Made Mandatory From 1 August for Employees to Attend the Workplace,” *Lexology*, June 9, 2021, <https://www.lexology.com/library/detail.aspx?g=525d78e2-fa7a-4595-9c8a-80489db29012>.

85 Salama, “Saudi Arabia: COVID-19 Vaccine Hesitants Risk Sacking.”

86 BBC News, “Saudi Arabia to Allow in Vaccinated Umrah Pilgrims,” *BBC News*, August 9, 2021, <https://www.bbc.com/news/world-middle-east-58135756>.

87 “Saudi Arabia: Authorities ease most COVID-19 restrictions as of March 6 / update 18,” *Crisis24*, March 5, 2022, <https://crisis24.garda.com/alerts/2022/03/saudi-arabia-authorities-ease-most-covid-19-restrictions-as-of-march-6-update-18>.

In Cyprus, there is *SafePass* which is essentially a vaccine mandate. By virtue of Ministerial Decree No. 16 of 2021, the government instituted *SafePass*, which requires everyone over the age of 12 to have at least one of the following: 1) a negative COVID-19 test in the past 72 hours; 2) a COVID-19 vaccination certificate; or 3) a certification of recovery from COVID-19 within the last six months.⁸⁸ At least one of these must be presented before entering any establishment. To further pressure the unvaccinated, the government's provision of free rapid tests was halted.⁸⁹ Therefore, the vaccination certificate emerges as the most feasible option, especially for those in the lower socio-economic strata. A Cyprus Mail column calls this "another erosion of personal liberty" through government policy in the name of public health,⁹⁰ while the Cyprus Bar Association argues that it is unconstitutional.⁹¹ Some citizens of Cyprus expressed their outrage against this vaccine mandate through a demonstration that turned into a riot.⁹² In response, the health minister of Cyprus made the case that this measure is also implemented in other countries and that it is a requirement for the reopening of the country.⁹³ As such justification principally banks on riding the bandwagon of several countries imposing vaccine mandates, the logic of such reasoning is faulty, if not missing. As one news aggregator thread curiously puts it, "*SafePass*: surreptitious compulsory

88 Nicholas Ktenas, "Cyprus: 'Safe Pass': Is Cyprus Making Concessions To The Protection Of Personal Data Under The GDPR To Deal With COVID-19?," *Mondaq*, July 15, 2021, <https://www.mondaq.com/cyprus/data-protection/1091654/safe-pass-is-cyprus-making-concessions-to-the-protection-of-personal-data-under-the-gdpr-to-deal-with-covid-19->.

89 Deutsche Welle, "Cyprus Vaccine Drive: 'SafePass' Mandatory, No More Free COVID Tests," *Taiwan News*, July 13, 2021, <https://www.taiwannews.com.tw/en/news/4247507>.

90 Cyprus Mail, "Our View: We've Moved from One Set of Restrictions to Another," *Cyprus Mail*, May 7, 2021, <https://cyprus-mail.com/2021/05/07/our-view-weve-moved-from-one-set-of-restrictions-to-another/>.

91 Annie Charalambous, "Cyprus Bar Association Insists Coronavirus 'Safepass' is Unconstitutional," *In-Cyprus*, May 12, 2021, <https://in-cyprus.philenews.com/cyprus-bar-association-insists-coronavirus-safepass-is-unconstitutional/>.

92 Tasos Kokkinidis, "Protestors Against Mandatory Vaccination Ransack Cyprus TV Station," *Greek Reporter*, July 19, 2021, <https://greekreporter.com/2021/07/19/protestors-against-mandatory-vaccination-ransack-cyprus-tv-station/>.

93 Charalambous, "Cyprus Bar Association Insists Coronavirus 'Safepass' is Unconstitutional."

vaccination in Cyprus?”⁹⁴ The answer is clear—yes, it is. In fact, beginning March 2022, Cyprus lifted travel restrictions only for those fully vaccinated.⁹⁵

North Asia

There is only one Asian country that comprises this region—Russia. Russia’s vastness spans two continents, Asia and Europe, hence it is remarkably European in terms of culture and politics but also geographically Asian. Although Russia underwent a radical transformation from the ashes of the Soviet Union, its transition to democracy is a failure.⁹⁶ Likewise, while there is progress in human rights in the country compared to the Soviet Union, the human rights situation in Russia remains dismal compounded by the lack of transparency and the weakness of the opposition and civil societies.⁹⁷ On the backdrop is Russian society’s continuous struggle in confronting a health crisis for many years now, even before the pandemic struck, due to the defects caused by government ineptitude, corruption, and faulty policies⁹⁸ which are further exposed and exacerbated by COVID-19. Meanwhile, expressing dissent can be charged with spreading false information and punished with hefty fines and/or imprisonment of up to three years, compounded by the Russian government’s personification of the Orwellian “Big Brother” through its utilization of applications and surveillance cameras to monitor the location and mobility of its citizens.⁹⁹

94 Eurotopics, “Safepass: Surreptitious Compulsory Vaccination in Cyprus?,” *Eurotopics*, May 10, 2021, <https://www.eurotopics.net/en/260958/safepass-surreptitious-compulsory-vaccination-in-cyprus>.

95 “Cyprus Lifts Entry Rules for Fully Vaccinated & Recovered Travellers,” *Schengen Visa Information*, March 1, 2022, <https://www.schengenvisainfo.com/news/cyprus-lifts-entry-rules-for-fully-vaccinated-recovered-travellers/>.

96 Alfred B. Evans, “The Failure of Democratization in Russia: A Comparative Perspective,” *Journal of Eurasian Studies* 2, no. 1 (2011): 40-51, <https://doi.org/10.1016/j.euras.2010.10.001>.

97 Marija Petrović, “Human Rights in Russia: Challenges in the 21st Century,” *ICRPR Human Rights Issues Series* (2014), http://culturalrelations.org/Resources/2014/ICRP_Human_Rights_Issues_2014-01.pdf.

98 Chaney Kalinich, “Russia: The Sickness of a Nation,” *The Yale Global Health Review*, December 21, 2016, <https://yaleglobalhealthreview.com/2016/12/21/russia-the-sickness-of-a-nation/>.

99 Human Rights Watch, “World Report 2021: Russia,” *Human Rights Watch*, 2021, <https://www.hrw.org/world-report/2021/country-chapters/russia>.

Although Russian President Vladimir Putin rhetorically denies support for mandatory vaccination,¹⁰⁰ proof of vaccination has become a requirement in the workplace particularly in service industries, thus making vaccination practically mandatory as the price for refusing the job is dismissal from the job.¹⁰¹ In light of the more contagious variants, health officials advocated for mandatory vaccination. A chief immunization coordinator remarked that consideration of radical policy solutions is justifiable because there can be no compromise when public health is on the line.¹⁰² Furthermore, taking into account the weaponization of emergency laws legislated for a different context and the proposal of constitutional reform during the pandemic, the circumstances of COVID-19 became an affirmation of the unbridled powers of the Russian government.¹⁰³

Towards a Guiding Human Rights Framework for Mandatory Vaccination

While the case studies represent the diversity of Asian practices of vaccine mandate, several key commonalities can be observed. First, implementing governments tend to defend vaccine mandates as the invocation of police power, formally defined as “the right of the state to take coercive action against individuals for the benefit of society.”¹⁰⁴ Police power, indeed, is at the heart of balancing the rights of the individual and the society. However, the substantiation of such broad invocation is often deficient, hence the lack of parameters in the exercise of police power in the vaccination campaign.

100 Agence France Presse, “Vladimir Putin Rejects Mandatory Covid Jabs As Russia Sees Record Deaths,” *NDTV*, June 30, 2021, <https://www.ndtv.com/world-news/vladimir-putin-says-he-opposes-mandatory-covid-vaccinations-2476077>.

101 Zahra Ullah and Anna Chernova, “Russia Says People Can Decline Its Vaccine. But for Many, They’ll Get Fired If They Do,” *CNN*, June 29, 2021, <https://edition.cnn.com/2021/06/29/europe/russia-vaccine-voluntary-compulsory-cmd-intl/index.html>.

102 Euractiv, “Serbian Health Officials to Announce New Vaccine Incentives,” *Euractiv*, July 21, 2021, https://www.euractiv.com/section/politics/short_news/serbian-health-officials-to-announce-new-vaccine-incentives/.

103 Kirill Koroteev, “A Year of Zeros? Legal Responses to the COVID-19 Pandemic in Russia,” *Verfassungsblog*, March 1, 2021, <https://verfassungsblog.de/a-year-of-zeros-legal-responses-to-the-covid-19-pandemic-in-russia/>.

104 Edward Richards and Katharine Rathbun, “The Role of the Police Power in 21st Century Public Health,” *Sexually Transmitted Disease* 26, no. 6 (1999): 350.

Second, the pandemic response of these countries, including compulsory vaccination policies, subscribes to the logic of securitization, which frames COVID-19 as a security threat through the metaphors of war, thereby calling for draconian yet faulty interventions.¹⁰⁵ What is worse is that the people, not the pandemic, end up being treated as a threat. Third, most vaccine mandates do not have enabling laws and instead rely on the reappropriation of old legislation or the decrees rashly produced according to the whims of their respective leaders, many of which are strongmen. This is of utmost importance since the rule of law is one of the bulwarks of human rights. “Respecting the rule of law,” Jaraczewski wrote, “requires state authorities to act within the bounds of law and to enact laws in a manner consistent with domestic standards.”¹⁰⁶ Fourth, a sense of disproportionality can be gleaned from the penalties imposed on the unvaccinated—exorbitant fines and heavy-handed sanctions. The penalties far outweigh and overshadow the incentives for being inoculated. Fifth, considering the historical, regional, religious, and cultural peculiarities, among others, underlying all these is the salient Asian perspective on human rights that places relatively more emphasis on the welfare of the community and the society as a whole compared to the West’s seminal focus on individual civil and political rights.¹⁰⁷ This is worryingly coupled with an emerging trend of authoritarianism and militarization characterized by the preference for a “stick” over a “carrot” in handling the pandemic. To address these human rights implications, potential guiding principles and frameworks are discussed in the following.

In his *Principles for the Justification of Public Health Intervention*, Upshur listed three principles that can be employed in analyzing ethical issues concerning public health: 1) the *harm principle*, which requires that the chief objective of the state intervention is to prevent harm; 2) the *least restrictive or coercive means principle*, rooted as well in the Siracusa

105 India Wright, “Are We at War? The Politics of Securitizing the Coronavirus,” *E-International Relations* (2021), <https://www.e-ir.info/2021/01/10/are-we-at-war-the-politics-of-securitizing-the-coronavirus/>.

106 Jakub Jaraczewski, “Emergency Measures, Human Rights and the Rule of Law in Face of COVID-19,” *Global Campus of Human Rights*, August 4, 2021, <https://gchumanrights.org/preparedness/article-on/emergency-measures-human-rights-and-the-rule-of-law-in-face-of-covid-19.html>.

107 Asoka De Zoysa Gunawardana, “An Asian Perspective of Human Rights,” *Singapore Journal of Legal Studies*, (1994): 521–30. <http://www.jstor.org/stable/24866722>.

principles which hold “that restrictions of liberty must be legal, legitimate, and necessary and use the least restrictive means that are reasonably available...[and with] no discrimination in their application;”¹⁰⁸ and 3) the *reciprocity principle*, which obligates the state to support and compensate for the repercussions borne out of the restrictions.¹⁰⁹ Furthermore, Savulescu conceptualized an algorithm model for mandatory vaccination based on the gravity of the threat to public health, the public confidence in the safety of the vaccines alongside its effectiveness, the expected utility of mandatory vaccination vis-à-vis that of the alternative measures, and the proportionality of the corresponding penalties (See Figure 1).¹¹⁰

108 Ross Upshur, “Principles for the Justification of Public Health Intervention,” *Canadian Journal of Public Health* 93, no. 2 (2002): 102, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6979585/pdf/41997_2002_Article_BF03404547.pdf.

109 Upshur, “Principles for the Justification of Public Health Intervention.”

110 Julian Savulescu, “Good Reasons to Vaccinate: Mandatory or Payment for Risk?,” *Journal of Medical Ethics* 47 (2020): 78-85. doi:10.1136/medethics-2020-106821.

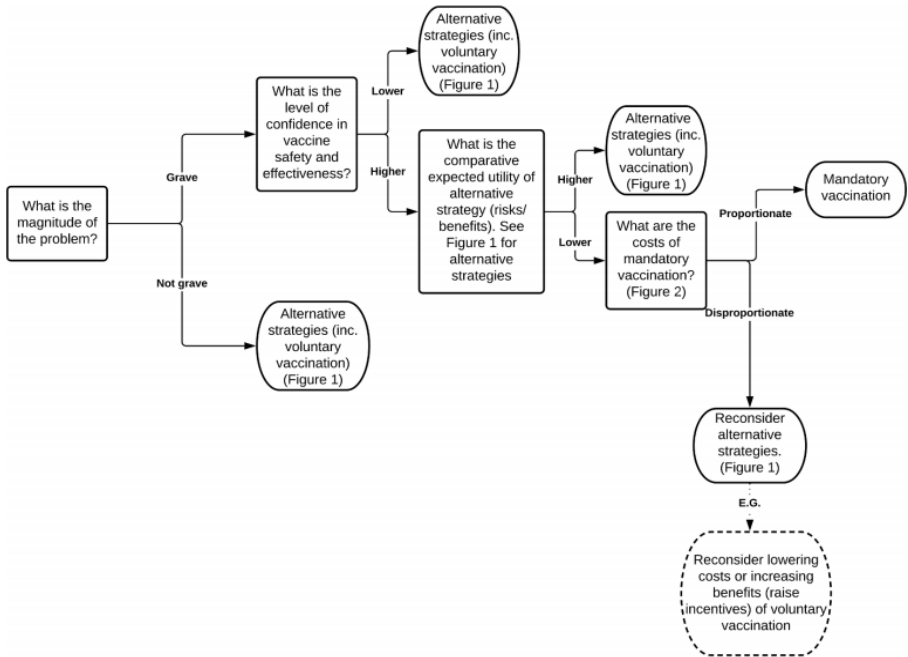


Figure 1: Algorithm Model for Mandatory Vaccination

While Asia has relatively fared well in its management of the pandemic, the gravity of COVID-19 and its more contagious variants cannot be understated. Although the vaccines are certified safe by regulatory institutions and backed by scientific evidence, public perception is mixed due to the aggressive peddling of misinformation and other social, political, and cultural variables mentioned above. Equally unfortunate is the fact that a comparative examination of the utility of vaccine mandates vis-à-vis other measures was left out in the same way that the scrutinization of the proportionality of the penalties was taken for granted. With these considerations in mind, the following policy recommendations are formulated.

The necessary starting point is to pay more attention to an effective information campaign before pondering on mandatory vaccination, cognizant that “the much larger hesitant population does respond to

information campaigns.”¹¹¹ Censorship must be out of the question due to the high risk of curtailing freedom of expression. Instead, in accordance with Eysenbach’s observation that the major problem is not merely the prevalence of misinformation but knowledge translation, governments must produce effective, informative, and factual materials to counteract disinformation and not merely suppress it.¹¹² Therefore, mandatory vaccination must be considered a policy of last resort—only when all other alternatives, such as the aforementioned information campaigns, have failed. Should it be deemed necessary, such mandatory vaccination must be legislated to establish a legal framework that governs the conduct of this policy. Through legislation, relevant key stakeholders are consulted, the proportionality of the penalties is fine-tuned, and necessary accountability mechanisms are instituted. In terms of implementation, the securitization of the pandemic response and the increasing militarization of mandatory vaccination efforts, as particularly evident in the case of Cambodia, must be scrutinized because in Asian nations with eroded civil societies, COVID-19 could be weaponized as a catalyst of the preference for the military rule as opposed to civilian supremacy.¹¹³ Moving forward, these mandatory vaccine measures must proceed transparently so that human rights stakeholders are empowered to flag abuses, propose recommendations, and ensure that individual liberties are not sacrificed in the name of the society’s welfare.

Conclusion

Herd immunity is seen as the ultimate path out of this pandemic. That is why several Asian countries resorted to implementing mandatory vaccination against COVID-19. This paper has sought to unpack the multilayered human rights context and implications of these mandatory vaccination policies as implemented by selected countries from the six major geographical regions of Asia. The case studies have shown that the oft-mentioned phenomenon of vaccine hesitancy and the invocation of police powers of the state, which

111 Liam Drew, “The Case for Mandatory Vaccination,” *Nature* 575 (2019): 60. <https://doi.org/10.1038/d41586-019-03642-w>.

112 Gunther Eysenbach, “How to Fight an Infodemic: The Four Pillars of Infodemic Management,” *Journal of Medical Internet Research* 22, no. 6 (2020): 1-6. doi:10.2196/21820.

113 Euan Graham, “The Armed Forces and COVID-19,” *International Institute for Strategic Studies*, April 8, 2020, <https://www.iiss.org/blogs/analysis/2020/04/easia-armed-forces-and-covid-19>.

dominate the discourse on mandatory vaccination, have deep-seated legal, social, political, cultural, and civilizational roots: authoritarianism, militarization, and religious philosophies, among others. In turn, the mandatory vaccination policies of these countries are generally marked by vastly disproportional penalties of hefty fines and heavy-handed sanctions, the absence of enabling law, and their adherence to the securitization of the pandemic. In response, this paper advocated that mandatory vaccination must instead be recognized as a policy of last resort if and only if all other measures, such as an effective information campaign, have already failed. But should the nations of Asia finally pursue or continue to pursue mandatory vaccination, just legislation combined with absolute transparency must be at the heart of such a pursuit.