

# **Ethics & SARS-CoV-2 – Restrictive Measures and Physical Distancing**

## **Introduction**

Controlling communicable disease outbreaks to protect and ensure the health of the community is one of the fundamental roles of public health. The response to a pandemic such as that of SARS-CoV-2 must be different from that of a more localized outbreak. Response to a pandemic cannot rely only on the response of the health care system and public health agencies on behalf of governments, as this is likely to be unsuccessful. It requires a whole of society response. As members of society we should all recognize our mutual interdependence, our different and distinct roles in responding to the situation, and our related responsibilities to protect each other.

Communities, often through the work of organized public health services, have employed interventions to reduce transmission for centuries. Quarantines, cordon sanitaire, and other physical distancing methods such as closing workplaces and schools and preventing public gatherings are key public health interventions. Such restrictive interventions are based on the well-recognized epidemiological fact that interfering with chains of disease transmission will eventually lead to the end of the outbreak. These methods were used in previous outbreaks such as during SARS in 2003, H1N1 in 2009, Ebola in 2014-16, and MERS in 2015. The global impact of the SARS-CoV-2 pandemic will require a scale and duration of these restrictions within and across countries that has not been seen for at least a hundred years.

The use of restrictive and physical distancing measures clearly raises many important ethical issues. There is often a focus on the impact of such measures on personal freedoms in times of public health emergencies. However, it is important to recognize that limits to such freedoms can be justified in light of the benefits to communities in relation to individual and collective health but also as a means to address health inequalities that will be magnified during an outbreak. Almost all countries have laws that provide public health agencies with the authority to take steps necessary to prevent harm in the community, particularly from communicable diseases.

The employment of these interventions serves the health protection responsibilities of government. Communicable diseases underscore our universal vulnerability and illustrate the deep interconnections between humans, as we now see, locally and globally. The overarching justification for the use of these measures rests on the common good that derives from their employment. In this document we address questions commonly asked about restrictive and distancing measures.

## **1. Is it ever legitimate to restrict an individual's freedom of movement during the SARS-CoV-2 pandemic?**

Freedoms, including freedom of movement, are vitally important. They should be created and maintained wherever, and whenever, possible. However, it can be legitimate in some circumstances to introduce restrictions for the sake of protecting the health of the public. Decisions to impose restrictions on freedom of movement should be grounded in the best available evidence about the nature of the outbreak pathogen and the best possible epidemiological evidence about the outbreak and the means of transmission. The decision to introduce restrictions is often a political one, but the decision must be determined on the basis of

the evidence and in consultation with national and international public health officials. No such interventions should be implemented unless there is a reasonable basis to expect they will significantly prevent or reduce disease transmission. The rationale for relying on these measures should be made explicit, and the appropriateness of any restrictions should be continuously re-evaluated in light of emerging scientific information about the outbreak. If the original rationale for imposing a restriction no longer applies, the restriction should be lifted without delay. However, if the original action fails to impact upon transmission it may be that even more restrictive measures are required. Decisions should be made in response to the individual situation.

## **2. How should we deal with the tension between balancing the protection of the community and restrictions on individual liberty?**

National governments, through departments of health and public health agencies and with the support of international organizations, have an obligation to protect the population's health, particularly where individuals cannot protect themselves. This is the case with SARS-CoV-2 where we have a novel virus with no available vaccine and no available specialist treatment. Public health measures such as the use of restrictions on community interaction and encouragement of distancing are the most effective interventions we have. Governments have a particular responsibility to ensure that any disadvantaged groups within their societies are protected from possible harm. Together these obligations create a strong mandate for action to protect our health based in solidarity and justice.

As suggested above any proposals for restrictions should carefully weigh the evidence that they will have a significant impact in terms of preventing or reducing threats of harm against the impact on individuals and communities. The full force of the law may not always be necessary and may not be the best initial response. However, in some cases, and in some societies, voluntary cooperation may not be enough to achieve the desired outcomes. In such cases governments are obligated to act to protect everyone's health. Most people would prefer to be in their own homes during quarantine and this might have other benefits if, for example, they can continue to work. Detention for quarantine purposes within institutions may be more expensive and should only be considered if there are clear reasons why people cannot be in their homes. While isolation in a properly equipped health-care facility is usually recommended for individuals who are already symptomatic, especially for diseases with a high potential for contagiousness, home-based isolation may sometimes be appropriate, provided that adequate medical and logistical support can be organized and family attendants are willing and able to act under the oversight of trained public health staff.

In some places travel restrictions have been implemented quite suddenly (i.e. blocking arrivals from selected countries within less than twelve hours). This has meant that some people are unable to return to their home countries. They may be stuck in foreign countries where they don't have health insurance and may not have the resources to support their extended stay including the costs of their health care if they fall ill. Shutting borders can be a legitimate means, in some cases, of protecting the home population, but mechanisms for returning people to their country of residence must be put in place. Of course, once such people return to their home country they must adhere to the relevant quarantine or isolation requirements.

It should be recognized, that in at least some cases, a less restrictive alternative may result in greater costs. This does not, in itself, justify more restrictive approaches. However, costs and other practical constraints (e.g., logistics, distance, available workforce) may legitimately be taken into account to determine whether a less restrictive alternative is feasible under the circumstances, particularly in settings with severe resource constraints. In the case of SARS-CoV-2, because of the associated pneumonia and other breathing difficulties that require hospital admission, it has been said that community distancing is an obligation because it results in the relief of pressure upon health systems. This is a benefit to everyone in that society, as fewer cases overall mean a better chance of survival for those severely affected. Once again, we should note, that the appropriateness of the degree of restrictions will be dependent upon the nature of the outbreak. More generally, SARS-CoV-2 is a global pandemic, where restrictions and distancing are the key means to address transmission, and this means that we might choose to focus on the most effective, rather than the least restrictive, alternative.

### **3. What obligations do we have to those who are detained in quarantine or isolation?**

Those who are restricted for the good of others are performing a vital role for the benefit of society. We, therefore, owe them a great deal. Such restrictions should not be used for, nor should they feel like, punishment. Where individuals have their mobility restricted (whether through confinement at home or in institutional settings) they should be ensured of the conditions to flourish. They should have access to food, drinking water, sanitary facilities, shelter, clothing, financial support and medical care. It is also important to ensure that individuals have adequate physical space, opportunities to engage in activities, and the means to communicate with their loved ones and the outside world. Fulfilling these needs is essential to address the significant psychosocial burden of confinement on individuals. The environment where they are detained should be a safe one, with protections from the risk of violence (including sexual assault) and local disease transmission, especially when individuals are confined in institutional settings or when communities are under mass quarantine. At a minimum, persons who are quarantined because they have been exposed to the pathogen responsible for the outbreak should not be put at heightened health risks because of the manner in which they are confined.

Individuals known to be infected, and in isolation or receiving hospital care, are often allowed no visitors. Wherever possible, they should be given opportunities to communicate with family or friends, including expressing their end of life care wishes, given the risk of critical illness, rapid deterioration, and mortality with SARS-CoV-2.

Even short-term restrictions on freedom of movement can have significant—and possibly devastating—financial, psychological and social consequences for individuals, their families, and their communities. Countries should provide assistance to households that suffer financial losses as a result of an inability to conduct business, loss of a job, damage to crops, or other consequences of restrictions on freedom of movement. In some cases, this support may need to continue for a period following the end of confinement. In addition, efforts should be made to support the social and professional reintegration of individuals for whom confinement is no longer necessary, including measures to reduce stigmatization and discrimination.

Compensation for the consequences of physical distancing is primarily the responsibility of national governments. Restrictive measures may be necessary, but entail a very real burden,

particularly where they persist for weeks or even months. We can see this impact most dramatically when employment is threatened or has ended. The details of how to respond to these issues will be different around the world. However, in many cases employment has ended because of physical distancing has removed customers (e.g. shop workers, the sports and entertainment sectors, restaurants, coffee shops etc.). In many countries around the world employment practice has moved to increasingly precarious forms of employment in the so-called 'gig economy', with short-term or freelance work, and with no access to sickness benefits tied to their work. In some countries access to health insurance is often tied to employment. Some economies are dependent, most of the time, upon migrant workers. Such non-citizens might not be able to work at this time, nor can they simply be deported to their home countries given restrictions on travel. We should also note that many continue to work because they are essential to the functioning of society even with extreme distancing in place (e.g. supermarket workers, health care workers, bus and taxi drivers etc.). These groups are often most vulnerable to infection due to frequent contact with the public and difficulties in implementing physical distancing in a work setting.

#### **4. What procedural protections must be established in relation to physical distancing?**

Mechanisms should be put in place to allow individuals who are impacted to challenge the appropriateness of restrictions, the way they are enforced, and the conditions under which the restrictions are carried out. If it is not feasible to provide full due process protection before the restrictions are implemented in an emergency scenario, mechanisms for review and appeal should be made available without excessive delay. Any person involved in a decision that fails to ensure the highest standards of protection for individuals will be held accountable for any abuses of authority by governments or relevant international bodies. Such protections play an important role in maintaining trust in public health agencies and governments.

#### **5. Physical distancing measures are likely to have a disproportionate effect on the most vulnerable in our communities. What additional considerations/measures need to be considered in implementing these policies?**

Physical distancing need not result in social isolation. However, it is important to see that such measures can impact on the welfare of individual and communities. We should be aware of this potential problem and attempt to put systems in place, in advance, to address feelings of mental distress resulting from isolation and abandonment, as well as the increased risk of domestic violence. Even in situations of sustained and widespread 'lock down' in cities, we can take measures to keep in touch with our neighbors as a way of ensuring the resilience and vibrancy of our communities. Any measures that are introduced, including those involving restrictions on freedom of movement, should be applied in the same manner to all persons posing a comparable public health risk. Thus, individuals should not be subject to greater or lesser restrictions for reasons unrelated to the risks they may pose to others, including membership in any disfavored or favored social group or class (for example, groups defined by gender, sexuality, nationality, ethnicity, or religion). Action to respond to pre-existing or new inequalities in the population as a result of restrictions and physical distancing should be part of the initial response and should be constantly monitored during the outbreak.

## **6. What are the obligations of policy makers and public health officials to inform the public about physical distancing?**

Policy makers and public health officials should engage communities in a dialogue about any physical distancing and restrictions and how they can be carried out with the least possible burden. They should also provide regular updates on the implementation of such measures, both to the public at large and especially to those who are impacted. Authorities should not assume that the public will search for information and they need to have inclusive strategies in place to communicate with the whole population including those who are illiterate, lack access to the media and the internet etc. Public health authorities should actively disseminate their public health messages in different places and formats. It should not be assumed that everyone will have heard or understood messaging around restrictions, especially when orders have changed recently or rapidly due to evolving evidence. Those enforcing distancing measures should be careful not to assume intentional non-compliance and be aware of the danger that insensitive or inflexible enforcement might endanger public trust and support.

Communication strategies should be designed to protect every citizen's privacy and confidentiality and avoid stigmatization of individuals, particularly in the media. Those implementing physical distancing and restrictive measures have an obligation of social justice to evaluate whether, and the extent to which, such measures have the capacity to create or exacerbate disadvantage, e.g., by ensuring that particular population groups are not targeted or disproportionately disadvantaged by such measures.

## **7. What are our obligations to people living in underserved areas, refugee camps, slums, homeless shelters, etc.?**

Many countries have temporary or permanent camps containing asylum seekers, refugees, and internally displaced people, as well as individuals who are homeless or living in shelters or slums. It is extremely difficult if not impossible to implement physical distancing within such settings and many have to continue do some kind of work in order to feed their families. SARS-CoV-2 has reinforced the ecology of sickness based upon the social determinants of health. The onus to address such inequalities falls primarily on governments, international agencies and NGOs. Camp managers and volunteer health workers within the camps are left with the responsibility to educate and advocate for potential or actual SARS-CoV-2 patients in these settings. Camp settings present special vulnerabilities due to the high number of pre-existing health conditions, poor sanitation, and close living conditions. Planning how to respond to such inequalities is the responsibility of the appropriate public health agency.

## **8. Should we implement possible alternative policies that could reduce the need for restrictions?**

The central place of freedom in global political discourse means that for many it will be tempting to look for alternative policies that will end or moderate restrictions. For example, one proposal is that we could use 'immunity passports' as a way to ease restrictions by allowing previously infected but recovered people to return to work and kickstart the economic recovery. However, immunity passport policies have the potential to cause unintended harms that could result in

greater inequalities through the parallel privileging and stigmatizing of people according to their immunological status. There is also a danger in basing such significant policies on test results as there may be false positive and false negative results, resulting in unfair treatment as well as an increased risk in reigniting community transmission. The appropriate conditions for moving away from restrictions and physical distancing will, clearly, require substantial future discussion.

### **9. Who is responsible for actions taken in relation to restrictions and physical distancing measures?**

It is national governments, and public health agencies appointed by them, that have primary responsibility for such measures as they have the powers to propose and remove the relevant laws. However, advice and support can also be sought from international organizations. Everyone using such powers needs to remember that ultimately their actions need to be justified to the citizens and residents of their countries, and that international monitoring will be on-going. SARS-CoV-2 is a global pandemic and as a result global solidarity is likely to be strong, but it can be threatened by the selfish actions of states. Ultimately, we are all responsible for the measures and the consequences that are carried out in our name.

This policy brief was developed by the WHO Working Group on Ethics & SARS-CoV-2, based on some of the text and issues discussed in the WHO Guidance Document, [Managing Ethical Issues in Infectious Disease Outbreaks](#) (2016).