



**Trinity College Dublin**

Coláiste na Tríonóide, Baile Átha Cliath

The University of Dublin

## The Vagueness of COVID-19 Restrictions: Rule of Law and Equality Concerns

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# Restrictions – 4 mechanisms

Public health advice

Legal prohibitions without sanction (dubbed ‘civil offences’ by Leo Varadkar)

Criminal offences with a reasonable excuse clause

Criminal offences without any reasonable excuse clause

# Principal restrictions

Restrictions on leaving your home

Restrictions on movement

Restrictions on events within your home

Restrictions on international travel

Face covering requirements

# Principal enforcement mechanisms

Criminal offences

Garda directions

Fixed penalty provisions

Dwelling offence provisions

# Levels of vagueness

Law v guidance / misdescription

'Civil offences'

Reasonable excuse

# Leaving home for 70+

'you need to cocoon'

'you cannot have visitors to your home'

HSE

# Movement restrictions

‘We can travel within a 20 kilometre radius of our homes or anywhere within our county for social and recreational purposes. This includes travel and leisure.

We can gather for social or recreational purposes in other people’s homes, subject to a maximum of 6 people at such a gathering.

We can exercise outdoors with others or gather outdoors with others for social and recreational purposes, subject to a maximum of 15 people.

People may travel outside of these geographical limits for visits to vulnerable persons.’

Department of Health

# International travel

'the Irish authorities require anyone coming into Ireland ... to restrict their movement for 14 days'

Department of Foreign Affairs



# Religious services

‘Religious services are non-penal in that there is no penalty attached to them.’

Minister for Health

‘There is no penalty attached to religious events because they are not included in the definition of ‘relevant event’ for the purposes of Regulation 8.’

Department of Health

# From under- to over-enforcement?

Religious services

Garda directives

Fixed penalty notices

# Disparate impact

Communities with history of poor relationships with gardaí

Lack of disaggregated data

By summer 2021, 53% of fixed penalty notices issued to 18-25 year-olds

# Future challenges

Pandemic highlights pre-existing legal strengths and weaknesses

Casualness / imprecision about extent of legal obligations

Vagueness as future strategy for over-enforcement?



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**Thank You**