

The Solution or the Problem? An Analysis of Vaccine Passports

The issue of vaccine passports is becoming all the more relevant to people worldwide, Canadians included, as a growing number of Canadian provinces have mandated them (Durrani), and the federal government has introduced a vaccine passport for local and international travel (“COVID-19 Proof of vaccination in Canada”). For the purpose of this essay, I shall primarily analyze this issue from a Canadian perspective, although data will be drawn from studies from other nations, as well. Even though the majority of Canadians support the implementation of a vaccine passport (The Canadian Press), there are two much more fundamental factors that determine whether such a measure should be taken. For a law to be reckoned as good, it must be in harmony with constitutional rights and freedoms, and overall bring about more good than harm. *Both* criteria must be met in order for any law to be deemed just. Any decree which goes against constitutional rights is always unjust, for our legally protected freedoms exist precisely to prevent injustice. Bringing about more good than harm is also essential, because a law’s very purpose is to benefit society and the people. Upon analysis of the coronavirus and the COVID vaccines, the Charter of Rights and Freedoms, and the implications of a vaccine passport, it is evident that vaccine passports are unjust because they violate fundamental rights and freedoms, are overall ineffective, detrimental, and discriminatory, and undermine democracy.

One thing must be immediately acknowledged: “vaccine conspiracies” are unscientific, illogical, and at times, downright ridiculous. The COVID vaccine doesn’t include a microchip, it doesn’t alter your DNA, and it isn’t causing variants (McEvoy). However, this does not mean that *all* objections to the vaccine are unreasonable, or that all vaccine-resistant or hesitant people are uneducated or irrational. In fact, while many of those who are vaccine-hesitant have little

education, those with PhDs are the most vaccine-hesitant group, according to a study conducted by researchers from Carnegie Mellon University and the University of Pittsburgh (“The most vaccine-hesitant group of all? PhDs”). And there are, in fact, some reasonable objections to getting the COVID vaccine, depending on your specific circumstances, such as religion/philosophy, age, and health. Myocarditis and pericarditis, although also rare, have occurred following a COVID vaccine, which has led the FDA to delay giving approval to Moderna for children 12-17 (Dunleavy). There have been rare cases of people who developed Thrombosis with thrombocytopenia syndrome (TTS) after getting the Johnson & Johnson vaccine, and while the likelihood of this happening is very low, the CDC does say, “Women younger than 50 years old especially should be aware of the rare but increased risk of this adverse event” (“Selected Adverse Events Reported after COVID-19 Vaccination”). The CDC also acknowledges that while the available research is indicating an overall positive outcome for pregnant women getting the vaccine, the research is “limited” (“COVID-19 Vaccines While Pregnant or Breastfeeding”). Canada too reports, although rare, adverse effects following the vaccine, most of which are non-serious, but many of which are (“COVID-19 vaccine safety”). Further, the likelihood of a severe allergic reaction after receiving a COVID vaccine, although small, is 10 times higher than from the flu vaccine (Higgins-Dunn). Occasionally, there are also very strange findings on a large scale, such as in Scotland where from August 21 to September 17 nearly four times as many doubly vaccinated people died as unvaccinated, and where a study by the European Journal of Epidemiology discovered that “the effectiveness of 2 doses of the BNT162b2 (Pfizer-BioNTech) vaccine against preventing COVID-19 infection was reported to be 39%, substantially lower than the trial efficacy of 96%” (Hall). Further, those who have already contracted COVID build antibodies, which may well last a lifetime, (Callaway) and

while these antibodies are less effective against variants (as are vaccines), they still offer a great deal of protection, which is why reinfection remains rare (“Reinfection with COVID-19”).

Young people are also considerably less likely to spread the virus or have severe effects after contracting it, (Ries) as are those who are physically active (Reynolds). Finally, there are certain religious, theological, and philosophical objections to vaccines, COVID and otherwise, held by many members of the Dutch Reformed Church, Church of Christ, Scientist, and other protestants, some traditional Buddhists (Pelcic et al; Hanneman) and Roman Catholics, (Hanneman; Feser) certain Japanese philosophies (Osaki) and some ethical vegans (Saleem).

It’s also very important to note that there are excellent medical, religious, and philosophical arguments in *favour* of getting vaccinated (I myself am fully vaccinated, and a proponent of the COVID vaccines). However, the above proves that there can also be reasonable objections to getting the vaccine, and that whether getting it is the right decision has a lot to do with your age group, health, and values. Further, as shall be discussed later, the unvaccinated present much more of a risk to themselves than to the vaccinated, so the argument that it is a societal duty is a mostly false one. Finally, vaccine passports are not only unjust but also unconstitutional. In the Canadian Charter of Rights and Freedoms, Section 7, (ii) Right to liberty, it is stated: “This aspect of liberty includes the right to refuse medical treatment (*A.C., supra*, at paragraphs 100-102, 136) and the right to make “reasonable medical choices” without threat of criminal prosecution: *R. v. Smith*, [2015] 2 S.C.R. 602 at paragraph 18.” A vaccine is a type of medical *treatment*, and whether one gets it is a medical *choice*. As was shown above, there can be reasonable motivations for not getting the COVID vaccine. This means one has the right to refuse the COVID vaccine without punishment, according to the rights guaranteed to us by the Charter, therefore making a vaccine passport unconstitutional. Further, implementing a vaccine

passport also goes against religious rights. In Section 2(a) - Freedom of religion, Analytical framework, it is stated:

“An infringement of section 2(a) of the Charter will be made out where:

1. the claimant sincerely believes in a belief or practice that has a nexus with religion,
2. the impugned measure interferes with the claimant’s ability to act in accordance with his or her religious beliefs in a manner that is more than trivial or insubstantial.”

It is important to note that sincere belief in a religious practice does not allow a person to commit actions that cause substantial harm to society. However, as will be demonstrated later, remaining unvaccinated is not the substantial threat to others it’s been portrayed, and so, vaccine passports *are* a violation of religious freedom for those with religious objections. Finally, vaccine passports violate conscience freedom, as well. Section 2(a) - Freedom of religion, in 2. Freedom of conscience, says:

“The Federal Court of Appeal has held that freedom of conscience is aimed more broadly at protecting views based on strongly held moral ideas of right and wrong, not necessarily founded on any organized religious principles, and distinguishable from political or other beliefs which are protected by section 2(b) freedom of expression (*Roach v. Canada (Min. of State for Multiculturalism & Citizenship)*, [1994] 2 F.C. 406 (C.A.))”

As an analysis of freedom of conscience by former Ontario Medical Association President, Shawn Whatley, points out, protecting morals and ideas, apart from the section that is covered in freedom of expression, means that our freedom of conscience protects our freedom to act or not act. Conscience rights apply just as much to atheists as they do to theists. Religious freedom is an

aspect of conscience freedom, but Canadian courts have ruled that they are not identical (Whatley). Therefore, this protects ethical vegans, as well as other people who have strongly grounded moral philosophies, from being forced to choose between vaccination and ostracization. As vaccine passports violate our constitutional freedoms, even *if* they were otherwise beneficial, they would still be unjust. Further, to add insult to injustice, certain Canadian provinces like British Columbia don't even allow for medical exemptions, including in cases where physicians have informed public health that it is impossible for their patients to get vaccinated (Geyn).

In addition to the negative aspects that are oftentimes ignored, vaccine passports have limited advantages, contrary to what's been portrayed. A detailed analysis of the effects passports have is made by Vinay Prasad, MD, MPH, a hematologist-oncologist and associate professor of medicine at the University of California San Francisco, who is a strong proponent of vaccines. He points out that the vaccinated are already largely protected, especially against severe effects, as stats continue to indicate (Young). Dr. Prasad also notes that those who are too young to get a vaccine are also largely protected by their age. Those who are unprotected, the people who have chosen to remain unvaccinated, fully accept the risk (Prasad). Vaccine passports are primarily justified on the grounds that the unvaccinated are putting others at risk when they have no right to do so. However, because only a small percentage of people who are vaccinated are susceptible to severe or moderate adverse effects from COVID, this justification is mostly false. And if the unvaccinated are willing to be at risk and put each other at risk, we may call them foolish, but we have no right to prevent them. A New York Times article highlights many of the same issues that Dr. Prasad does, pointing out that until vaccines are equally and equitably distributed around the world, passports are likely to have an adverse effect (Popescu and Phelan). Further, as vaccines

only reduce transmission by about 50% at six months, with evidence of further decrease after, they are insufficient to give a population herd immunity (Golden et al). Further, vaccine passports are likely to have the unfortunate outcome of reducing vaccine-resistant and hesitant people's confidence in the medical establishment, which of course, will have a negative effect on public health and safety (Khullar). In addition, there is also the risk of fraud, counterfeiting, and information theft when digitally storing private health data on a mass scale, not to mention the way in which the widespread sharing of this information violates privacy rights (Renieris). Due to technological malfunctions with digital vaccine passports, there have also been instances of fully vaccinated people being denied services (Rubertucci). Finally, vaccine passports would disproportionately hurt Indigenous and minority groups, who have lower vaccination rates (Ghaffar).

But local vaccine passports aren't the only unjust, detrimental, and discriminatory vaccine mandate; international travel vaccine passports (ITVP) have significant negative consequences, as well. The majority of lower-income countries don't have enough vaccines to doubly, or even singly, distribute to all their citizens, which means that ITVP directly target poor countries throughout the world. Further, in many countries, richer citizens are given priority access to vaccines, which results in ITVP especially discriminating against the poor and middle class. These concerns have been highlighted by experts (Voigt et al.) and it is no surprise that the WHO has spoken against ITVP (Wood). They also greatly reduce the ability to distribute vaccines to poor countries, because nations are forcing their own citizens to get their shots or be restricted; every dose that a vaccine-resistant person takes is a dose that someone in a developing nation who desperately wants it can't have. This also has a global impact on the spread of the virus, as the unvaccinated are "variant factories" in the words of an infectious disease expert

(Fox), and the percentage of unvaccinated people in low-income countries is immeasurably higher than it is in Canada or most wealthy nations, with 3.5% of people in low-income countries having received *one* dose, compared to 74% being *fully vaccinated* in Canada (“Coronavirus (COVID-19) Vaccinations”). ITVP discriminate against poor people and poor nations, increase the spread of variants, and work against global solidarity, by reinforcing the false notion that COVID is an issue we should be focusing on locally, rather than internationally. (Voigt et al.)

Finally, allowing the government to exercise this level of control undermines a democratic society. Vaccine passports allow people who do not get vaccinated to be ostracized, and even fired, (Hsu) for the primary reason that they present an alleged danger to society; however, as was demonstrated, this argument is mostly false, because the unvaccinated present only a small danger to the vaccinated. Something as serious as a vaccine passport is being justified primarily on the basis of a quasi-valid concern. Liberty, a human rights advocacy group in the UK, points out how the British Medical Association and GMB Union have raised concerns about the rights of social care employees if the UK were to introduce a vaccine mandate (“Vaccine Passports and Mandatory Vaccines are Not Solutions”). The undermining of employment rights is only one aspect of undermining democracy as a whole. Further, vaccine passports act like checkpoint permits, typical of authoritarian regimes (Sandvick et. al). What would have, at one time, been considered private medical information has become public, with everyday citizens, business owners, and tech companies being forced to ask who is and is not vaccinated. This type of step toward making private information less private has been done before in the name of the common good, such as when the PATRIOT Act was introduced in response to 9/11, an act that has still not fully expired or been repealed. In fact, despite concerns that it violated the fourth and other amendments (Goitein), the PATRIOT ACT was passed with

overwhelming support (Hudson) arguably due to the fear surrounding 9/11. Governments across the world have exerted tremendous emergency power during this pandemic through lockdowns, media censorship, surveillance, police and military intervention, and vaccine passports (Kemp). As was shown above, some vaccine passports are harsher than others, such as British Columbia's which makes no allocation for those with medical exemptions. If cases continue to rise, or a deadlier variant emerges, democratic governments could conceivably extend vaccine passports to apartment buildings and other places of residence. Many nations around the world, even democratic ones, have already implemented much harsher vaccine passport systems than what we have in Canada, some practically amounting to a forced vaccination for many citizens, through loss of employment and other means ("Factbox: Countries making COVID-19 vaccines mandatory").

In conclusion, vaccine passports, while not entirely without advantages, are far from the solution they have been portrayed. Their alleged pros have been very overextended, as the vaccinated are already greatly protected against COVID, as are those who are too young to get vaccinated; the large majority of people who are at risk from the unvaccinated are also unvaccinated. In addition, the COVID vaccines only reduce transmissibility by about 50%, meaning it's unlikely they'll ever give us herd immunity. It has also been demonstrated how and why vaccine passports violate the right to liberty, as well as conscience and religious freedoms. Finally, they have multiple practical detriments: discrimination against minorities; discrimination against poor people locally and internationally; discrimination against low-income nations as a whole; reduction in the number of vaccines we can give to people in foreign countries who want them, need them, and don't have them; increasing the spread of variants and working against global solidarity; giving too much power to governments, and as a result, undermining

democracy; and, in certain cases, discrimination against even those with medical exemptions, making people choose between being fired or getting vaccinated, and being so restrictive that they practically amount to a forced vaccination for many individuals. Vaccine passports, local and for international travel, are in direct conflict with the interests of individuals, nations, global solidarity, and democracy, and therefore, must be opposed.

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