

Mandatory Vaccinations Cannot Be Part of a Democratic Society

“A Canadian is a Canadian is a Canadian. And you devalue the citizenship of every Canadian in this place and in this country when you break down and make it conditional for anyone.” Prime Minister Justin Trudeau said those famous words in a town hall in Winnipeg in 2015. His two sentences capture the essence of the legal ramblings embedded in the Canadian Charter of Rights and Freedoms and in the Human Rights Codes of each Canadian province and territory. However, with proof of COVID-19 vaccination status becoming a condition of employment and, in some places, a requirement for entry into buildings, the rights and freedoms of working Canadians are in jeopardy. There is no fair use of workplace-mandated vaccinations, especially with a constantly mutating Covid-19 virus that keeps moving the goalpost.

In 1982, the Charter of Rights and Freedoms became part of the Canadian Constitution, which outlines the basic rules of how various levels of government conduct themselves in a free and democratic society. The Charter reveals the rights and freedoms that are necessary in such a society. Specifically, Section 7 states that “everyone has the right to life, liberty and security of the person and the right not to be deprived.” In other words, Canadian citizens have the right to refuse medical interventions and have the freedom to decide on matters related to their bodily integrity. Furthermore, Section 2 states that everyone has the freedom “to create and express their ideas and offer their own solutions to social problems.” Hence, Canadians have the freedom to decide if they want to be vaccinated or not and if they want to employ other methods of reducing Covid-19 transmission such as mask-wearing. Moreover, Section 15 states that everyone “is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.” Simply put, the Charter affirms that all Canadians should be treated fairly and equally and without discrimination such that no individual should be denied employment opportunities because of their unvaccinated status.

Provincial and territorial Human Rights Codes, despite their minor differences across Canada, all adhere to the same rule that there should be no discrimination in employment regarding recruiting, hiring, suspension, and termination. Yet, provinces like Quebec and BC suspended or dismissed medical and nursing staff who are unvaccinated or who refuse to show proof of vaccination at a point when the healthcare system was on the brink of collapse. BC’s public sector employees who refused vaccination or refused showing proof of vaccination were also placed on unpaid leave which, after three months, would lead to termination. Despite clearly outlined Human Rights Codes, certain governments have chosen to discriminate based on vaccination status.

Unfortunately, a one-size-fits-all strategy does not work for combatting Covid-19. The Covid-19 virus is constantly mutating and causing waves of serious burden on Canada’s healthcare system. At times, mandatory vaccination may be justified and then the newest variants move the goalpost again. This pandemic can hardly be compared to the serious measles outbreak

in the late 1970s where many Canadian provinces enforced mass immunization in public schools. Unlike Covid-19, the measles virus did not mutate so having a vast majority of Canadians vaccinated against measles did break the chains of measles transmission.

Currently, Covid-19 vaccines, like those manufactured by Pfizer, Moderna, AstraZeneca, and Janssen, are based on research conducted on the original Covid-19 virus and do not prevent infection or re-infection. At best, two doses only reduce the risk of hospitalization, severe disease, and death from Covid-19 for up to 6 months for the early variants. Even booster doses have waning protection against symptomatic disease. With the latest dominant omicron strain, two doses of mRNA vaccines are only 65% effective for preventing hospital admissions. Furthermore, the severity of the disease caused by omicron is lower, so the risk of hospitalization is lower. With the drop in hospitalization rates and high Covid-19 infections among both the vaccinated and unvaccinated, it would be difficult for the courts to justify ruling in favour of mandatory vaccinations, especially in the workplace. Both federal and provincial governments implemented mandatory workplace vaccinations in fall 2021, even though according to Statistics Canada, from April 2020 to June 2021, Ottawa had the highest rate of employees working remotely. Despite more than 98% of federal and BC provincial employees vaccinated to keep their jobs, 82% of the Canadian population fully vaccinated with two doses, and 30% of Canadians working from home, the pandemic has not ended. The Covid-19 virus is still here.

Although the Canadian Charter of Rights and Freedoms guarantees Canadian citizens the freedom to decide on matters related to their bodily integrity and autonomy over medical decision-making, Section 1 of the charter allows those rights to be infringed upon if government can justify the need for those limitations. However, mandatory workplace vaccinations cannot be justified in a free and democratic society at this time in the Covid-19 pandemic when variants continue to mutate, when Canada has gone through five waves and has just started seeing the peak of the sixth wave, and when vaccinations have not proven to be effective in eliminating the Covid-19 threat. Even the Human Rights Codes of each Canadian province and territory clearly outline that there should be no discrimination in the workplace regarding hiring and firing. There is no fair use of vaccination certifications and no government entity should be allowed to determine the individual medical choices of its citizens. If Prime Minister Justin Trudeau is to be believed when he said, "A Canadian is a Canadian is a Canadian," there can be no mandatory workplace vaccination which excludes and deprives unvaccinated Canadian citizens of employment opportunities, or which adversely affects their job status based on personal medical decisions. That is how a democracy works.

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