

Statement on ‘Compulsory vaccination for Covid-19 and human rights law’

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Further to public discussion of our written evidence to the UK Parliament Joint Committee on Human Rights (JCHR) on ‘Compulsory vaccination for Covid-19 and human rights law’,¹ the authors make the following statement.

1. Statement for use

‘Our submission to the UK Parliament Joint Committee on Human Rights is about what policy options the law leaves open for responding to the Covid-19 pandemic, not about what policy the government should in fact adopt. Our starting point is that the imposition of vaccination is not currently permitted by law and would require an Act of Parliament.

‘We consider whether a policy that imposes vaccination enshrined in law would comply with the UK’s obligations under the European Convention on Human Rights (ECHR). We conclude that there is an arguable case for the compliance of a vaccination law with the ECHR.

‘We are not endorsing a policy that imposes Covid vaccination in the UK—we have no desire to take a policy position without concrete data, including on vaccine safety and efficacy, as well as on the level of vaccine hesitancy in society and the costs associated with requiring people to receive a vaccine

‘Our evidence was not commissioned by any individual, organisation, or body and we have no conflicts of interest.’

2. Notes for editors

2.1. Context for evidence

In July 2020, we responded to the UK Parliament JCHR’s open call for evidence on the ‘The Government’s response to COVID-19: human rights implications’ with the above-titled evidence. We were among 226 organisations, members of the public, and academics who responded to the call.² The JCHR published its final report on 21 September 2020.³ The Committee mentions vaccination once in passing. Our submission is not cited.

2.2. Substance of evidence: our argument concerns law, not policy

In our submission, we say, ‘...as and when a vaccine becomes available at scale, the Government should give serious consideration to compulsory immunisation as a means of reducing the impacts of Covid-19. There is an arguable case for the compatibility of compulsory vaccination with human rights law.’⁴

Four clarifications: 1) by ‘compulsory vaccination’, we mean any scheme that imposes a requirement to vaccinate backed by state sanctions, including what others describe as ‘mandatory vaccination’ involving, for example, monetary fines—the language ‘compulsory’ reflects the direct use of state power and should not be understood as endorsing the imposition of vaccination, for example, through physical force;⁵ 2) when we say ‘available at scale’, we assume that a Covid vaccine satisfies the requirements of safety and efficacy⁶—at the time of writing, no vaccine candidate currently fulfils these criteria; 3) by ‘serious

consideration’, we are not endorsing a policy that imposes Covid vaccination in the UK—we have no desire to take a policy position without concrete data, including on vaccine safety and efficacy, as well as on the level of vaccine hesitancy in society and the costs associated with requiring people to receive a vaccine; 4) our use of the language *arguable* is deliberate; we cannot express a firm conclusion on ECHR compliance without knowing more about the specifics of a vaccination law, including the way in which it would enforce compliance. Our submission offers a human rights scaffold for thinking about the imposition of vaccination compared to other public health measures.

2.3. Further context

- Any public health measure involves a careful consideration of respect for the rights of individuals and rights of the wider public. Interventions that are permitted under public health law may involve serious impositions on individuals. Very restrictive measures (such as mandatory testing and long-term quarantine) can and have been deemed lawful if they meet certain conditions, for example, necessity and proportionality. Our submission reflects this context.
- There is a vast literature on the conditions under which a policy of compulsory vaccination would be ethical and lawful. Our submission draws attention to a new question in this much larger debate.
- Some states have mandatory vaccination policies, for example Australia (federal law) and Italy.

¹ Available at <https://committees.parliament.uk/writtenevidence/9253/pdf/> accessed 9 November 2020.

² See <https://publications.parliament.uk/pa/jt5801/jtselect/jtrights/265/26519.htm> accessed 9 November 2020.

³ Available at <https://committees.parliament.uk/publications/2649/documents/26914/default/> accessed 9 November 2020.

⁴ Our evidence, lines 30-32.

⁵ Our evidence, footnote 1.

⁶ Our evidence, line 181.