

Correspondence

No-jab, no-job clause: ethical issues and legal impediments

ABSTRACT

Vaccination is considered to be one of the greatest public health achievements in the 20th century. The coronavirus disease 2019 (COVID-19) has triggered a worldwide debate and legal exemption of vaccination and its possible consequences. Now that COVID-19 vaccination programme has started, there is immense pressure from the general public. Following the recent correspondence where the authors have rightly stated the need to take seriously the ethical issues under the COVID-19 vaccination, this paper highlights the ethical and legal impediments of ‘no-jab, no-job clause’ arising in many countries.

Keywords COVID-19, job, vaccine

Vaccination is considered to be one of the greatest public health achievements of humankind in the 20th century.¹ The coronavirus disease 2019 (COVID-19) has triggered a worldwide debate and legal exemption of vaccination and its possible consequences. Vaccinations have also long been the subject of various ethical controversies. The key ethical debates surrounding vaccination are regulations, development, and use generally revolve around mandates, research and testing, informed consent, and access disparities.² There is an even bigger issue: the longer the disease is allowed to thrive, the more likely it is to mutate into variants resistant to the vaccines. Several ethical issues are now emerging during the COVID-19 pandemic including vaccine hoarding by rich countries such as USA, China, the EU, the UK, Israel and the UAE,³ a possible threat of faking COVID-19 diagnostic tests and vaccination certificates,⁴ and the no-jab, no-job clause.⁵ Following the recent correspondence where the authors have rightly stated the need to take seriously the ethical issues under the COVID-19 vaccination,⁴ this paper highlights the ethical and legal impediments of ‘no-jab, no-job clause’ arising in many countries.

Now that COVID-19 vaccination programme has started, there is immense pressure from the general public and other employees to try to ensure as wide coverage as possible in an effort to control the spread of the COVID-19. It is in this context that employers in the UK plan to impose a ‘no-jab, no-

job’ clause for existing and future members of companies.⁵ However, employers are cautioned that they should analyse each job role and evaluate health and safety risks before introducing such clause. There are also legal impediments to such a clause. The *Public Health (Control of Disease) Act 1984*, under which the COVID-19 health regulations have been promulgated, provides that any individual cannot be required to undergo medical treatment, including vaccination.⁶ Another notable reason on the legal impediment of the ‘no-jab, no-job clause’ is Equality Act 2010, section 39, against discrimination in the terms upon which employment is offered, or work is refused, because of a ‘protected characteristic’.⁷ In Britain, the discrimination law protects individuals from unfair treatment and promotes a fair and more equal society. In the case of ‘no-jab, no-job’, the relevant characteristics are likely to be age, gender, disability and religious or other beliefs. Some workers may also be unable to accept the vaccine because of religious or other sincerely held beliefs. Shrivastwa *et al.*⁸ found religion as predictive factor of children’s vaccination status in India.

The Centers for Disease Control and Prevention (CDC) noted that others may have contra-indications to vaccination which could mean their health would be seriously affected if they had to take the vaccine. The CDC states: ‘a vaccine should not be administered when a contraindication is present’.⁹ In short, substantial numbers of workers would be

unable to comply with a requirement to be vaccinated through no fault of their own.

If strategies such as the mandatory vaccination programmes do not achieve adequate vaccination rates in many countries, then governments and private companies need to reconsider whether mandatory vaccination programme—coercive policies that are often the last resort—might be needed to end this crisis. The World Health Organization Director-General states: ‘this pandemic has tested us like never before, and now, even as we have developed vaccines in record time, it is testing us again. Vaccine equity is not just a moral imperative. Ending this pandemic depends upon it.’¹⁰ However, ‘mass’ vaccination does not mean ‘indiscriminate’ vaccination. Governments and private companies must ensure that the human person is the subject and never an object. This is the reason why ethical and legal considerations are needed. They are the assurance that our humanity is and will always be protected.

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Conflict of interest

The author declares no conflict of interest in this paper.

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