

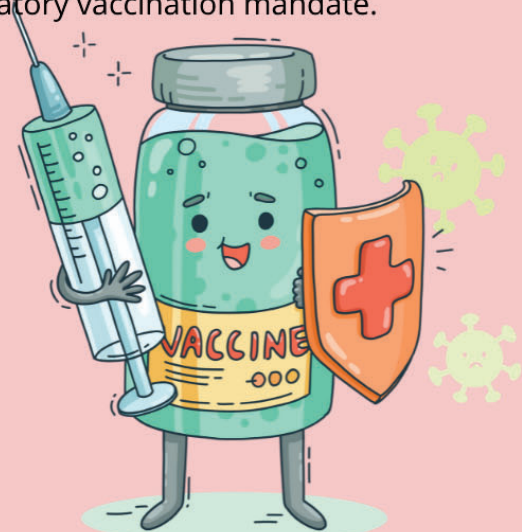
ANTI-VAXXERS – GROUNDS FOR ASSERTION OF FUNDAMENTAL RIGHTS UNDER THE CONSTITUTION

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The COVID-19 pandemic brought with it the necessary challenges in all facets of life. Most importantly, now, that is being hotly debated and vigorously challenged is the mandatory regulation of vaccination for the COVID-19 virus. Various grounds have been propagated by anti-vaccination campaigners also known as “anti-vaxxers” to restrain the rapid progression of vaccination. Most important grounds lie in, of course the fundamental rights under the constitution. This article wishes to examine to what extent can the fundamental liberties provisions under the constitution can be stretched to cover protection against the mandatory vaccination mandate.



Grounds Under the Constitution

Anti-vaxxers have used various grounds to dodge the mandatory regulation for vaccination. This protest has been going on for as far as the vaccine for COVID-19 has been developed but the ultimate showdown came in mid-2021 when the vaccine was introduced officially and administered on the world population. The World Health Organization (WHO) has sanctioned the almost compulsory mandate that all should be vaccinated against this virus. The vaccine issue has covered economic, political, medical, law, moral and ethical issues.

The administration of the vaccine had been widely debated. Most are sceptical as to its effectiveness, its relevance and need. Whilst most medical experts have assured its safety yet there will always be some who do not agree. What is really being protested is not clear, yet from the literature, it would seem that most of the protest is in relation to the “mandatory” regulation that requires all to be vaccinated.

People believe that they should be given the choice as to whether they can choose to be vaccinated or not. The mandatory requirement is the element that is being seriously challenged. While most constitution guarantee the right to life and liberty to its citizens, yet the question is that can this mandatory requirement be lawfully and validly applied on the citizens through the force of law?

Human rights have been fought hard. Grounds under **Article 5 of the Federal Constitution** such as right to liberty, right to life, right to choose, right to refuse medical treatment including the right to reject vaccination, right to religious beliefs have all been advanced to reject the mandatory requirement for vaccination.

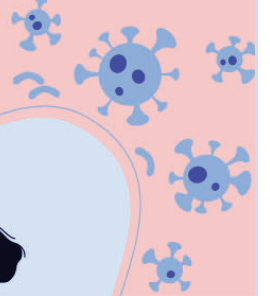
Question now is do the anti-vaxxers have any valid ground to justify their right not to get vaccinated? All arguments have been successfully quashed by the nation states except one that has been gaining sufficient ground and acceptance i.e., religious exemption. Many workers are turning to religious exemptions to avoid vaccine mandates. However, it's not a simple solution for them or their employers. Proponents have argued that their religious beliefs forbid vaccinations and/ or any interference with the act and will of God.

This argument has sufficient validity as it goes to the root of the fundamentals of human right which all constitutions guarantee would be free from the interference of the state. However, there have been arguments against this i.e., that these fundamental rights are not absolute, and the state has a right to interfere when there is a national, health and/ or public interest in the enforcement of a mandatory requirement.

Religious exemptions also may not be a valid ground for protests by anti-vaxxers among the Muslim dominated population in Malaysia. The *fatwa* or decree by the Muslim Religious Council of Malaysia together with the support and reference from other religious authorities from other Muslim countries has decreed that vaccination in a global pandemic situation is permissible and/ or obligatory given the seriousness and threat to the lives of Muslims and the propagation and survival of the Muslim society. Thus, based on the *fatwa*, Muslim anti-vaxxers in Malaysia may not have a solid ground to rely on religious exemptions and/ or right to refuse vaccination.

Ultimately, the issue relating to refusal for vaccination that must be decided is this: are the anti-vaxxers' protests against the mandatory regulations for vaccination a valid and genuine propagation for fear or threat to life or just a mere assertion, blatant protest and an abuse of a perceived absolute right and/ or privilege to refuse vaccination?





Arising Issue

The mandatory regulations for the enforcement of vaccination has taken its toll on the law enforcement, the medical fraternity and the government.



Recent findings of fake vaccination certificates issued by disreputable clinics and unethical medical practitioners has taken the war against anti-vaxxers to a new height. This issue is still being investigated and there is yet an official figure as to how many cases of falsification of vaccination certificates that are actually in existence.

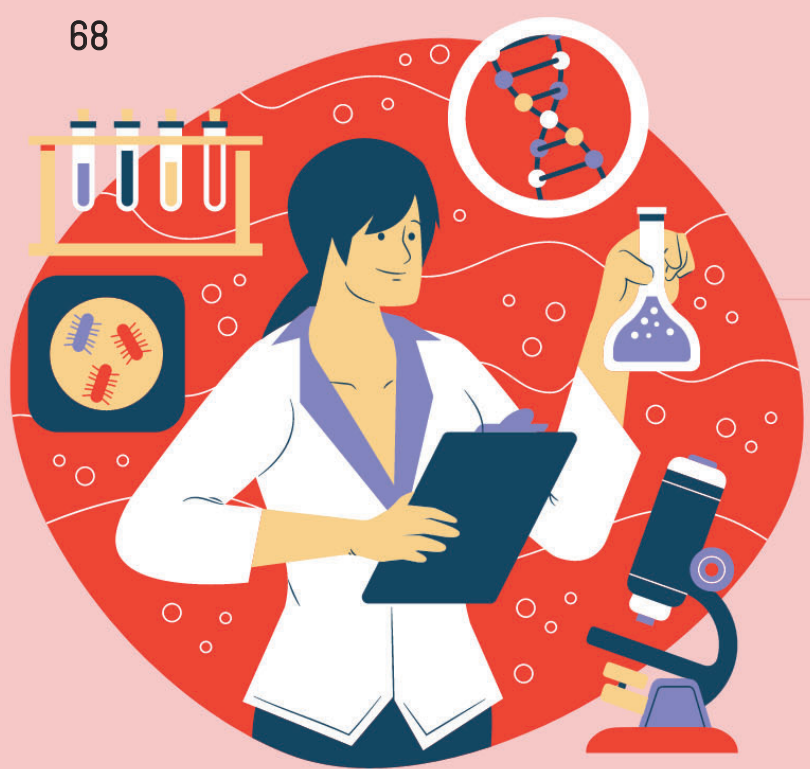
Conclusion

We need to understand that COVID-19 is here to stay. It has made its home in our environment and most likely will continue to mutate and infecting the human population. Vaccination, for now, is the only shield known to man against this viciousness. Malaysia, has to date, managed to fully vaccinate at least 90% of its adult population and 48% of its adult population has also received their booster shots. Of the teenage population to date 80% have been fully vaccinated. As for children ages 5 to 12, the vaccination process is currently under way.

All this, had been achieved under the National Immunization Programme led by the government. Vaccination gives us the freedom to live our lives in as much normalcy as it is permitted. COVID-19 has had a major impact in our lives and we have had to survive, despite the speed in which it spreads. Thus, we cannot for once trivialize the importance of vaccination in our lives. We absolutely cannot live without it.

Welcome to the new norm.





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