

## **COVID-19 VACCINE HESITANCY IN MALAYSIA: CHALLENGES WITHIN THE LAW AND WAY FORWARD**

Hafidz Hakimi Haron \*

Nadiah Arsat \*\*

Muhammad Ashraf Fauzi \*\*\*

### **ABSTRACT**

For hundreds of years, vaccines have been a critical tool in the prevention of viral diseases. Vaccination programmes have gained prominence as one of the primary strategies for combating the COVID-19 pandemic. Despite this, COVID-19 vaccination programmes have frequently been viewed negatively by many. This is evident by the fact that vaccine hesitancy continues to grow at an unprecedented rate which is much facilitated by the rapid growth of communication and information technology. Despite the fact that vaccines and vaccinations are considered medical products, the difficulties they present are socio-legal in nature. The study examines four major factors that contribute to COVID-19 vaccine hesitancy in Malaysia namely compulsory vaccination and adverse event following vaccination (AEFI), information disclosure, misleading religious beliefs and sentiments, and misinformation and disinformation. It should be noted that, the identification and discussion of the factors mentioned above are vital as the failure of any future vaccination campaigns resulting from vaccine hesitancy would pose a huge threat to achieve the United Nations' Sustainable Goals (UNSDG), especially in respect of good health and sustainable economic growth. Therefore, for the purpose of this research, the paper adopts qualitative research approach to achieve its objectives. The paper recommends that the Malaysian vaccination legal framework be strengthened.

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\* School of Law, UUM College of Law, Government and International Studies, Universiti Utara Malaysia. Email: hafidz.hakimi.haron@uum.edu.my. (Corresponding author).

\*\* Centre of Foundation & General Studies, Manipal University College Malaysia. Email: nadiah.arsat@manipal.edu.my.

\*\*\* Faculty of Industrial Management, University Malaysia Pahang, Malaysia Email: ashrafauzi@ump.edu.my.

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## **KERAGUAN TERHADAP VAKSIN COVID-19 DI MALAYSIA: ISU, CABARAN DALAM UNDANG-UNDANG DAN LANGKAH KE HADAPAN**

### **ABSTRAK**

Selama ratusan tahun, vaksin telah menjadi sumber kritikal bagi tujuan pengawalan dan pencegahan penyakit berjangkit. Program-program vaksinasi telah menjadi senjata utama dalam mengekang penularan wabak COVID-19. Namun yang demikian, terdapat sebilangan anggota masyarakat yang melihat program vaksinasi melalui sisi yang negatif. Ini terbukti apabila keraguan terhadap vaksin tetap meningkat. Meskipun vaksin dan vaksinasi merupakan produk bidang kesihatan, namun cabarannya adalah bersifat sosio-perundangan. Kajian ini melihat kepada 4 faktor utama yang menyumbang kepada keraguan terhadap vaksin COVID-19 di Malaysia dengan menggunakan pendekatan kajian kualitatif; iaitu vaksinasi mandatori, kesan advers susulan imunisasi (AEFI), pendedahan maklumat, sentimen dan kepercayaan agama yang mengelirukan, serta maklumat salah dan maklumat palsu. Perlu diingatkan bahawa, pengenalpastian dan perbincangan faktor-faktor seperti yang dinyatakan di atas adalah penting kerana kegagalan sebarang kempen vaksinasi pada masa hadapan akibat daripada keraguan vaksin akan menimbulkan ancaman besar untuk mencapai Matlamat Mampan Pertubuhan Bangsa-Bangsa Bersatu (UNSDG) terutamanya dari segi kebaikan, kesihatan dan pertumbuhan ekonomi yang mampan. Oleh itu, bagi tujuan penyelidikan, kertas kajian ini menggunakan pendekatan kajian kualitatif untuk mencapai objektifnya. Kertas kajian ini mencadangkan bahawa kerangka perundangan berkenaan dengan vaksinasi di Malaysia haruslah diperkukuhkan.

**Kata Kunci:** Hak Asasi Manusia, Matlamat Pembangunan Mampan Pertubuhan Bangsa-Bangsa Bersatu, Keraguan Vaksin, Undang-Undang Kesihatan Awam, Undang-undang Vaksinasi.

## INTRODUCTION

Justice Harun Hashim in his article once questioned:

“... what has become of moral standards generally... It is, however, surprising that in a country like Malaysia with strong religious roots and family ties that we should be concerned with declining moral standards but the bitter truth is that the signs of moral decay have already appeared. It may well be that if we can determine the root causes of the lapses in Malaysian moral behaviour the remedies will not be difficult to find”.<sup>1</sup>

In 2019, the World Health Organisation classifies vaccine hesitancy as one of the top threats to universal health.<sup>2</sup> Vaccine hesitancy produces moral questions, particularly on collective freedom against individual rights. Moral conflicts between collective and individual freedoms lead to the erosion and decay of moral values and principles such as social justice, solidarity, and responsibility.<sup>3</sup> This is due to the fact that; in the pandemic situation, achieving herd immunity is the most relevant ethical and moral objective to be achieved.

Human history shows us that despite the number of pandemics, humanity managed to defeat them through the development of cures or vaccines. A typical vaccine in a pandemic typically serves as a mechanism to reduce the negative effect of the virus on a human being. Hence, vaccines enhance human's capability to combat a virus or any other harmful microorganisms.

Nevertheless, despite being regarded as an effective tool against a pandemic, issues surrounding the vaccine, vaccination or immunisation campaigns have never been short of controversies. These beleaguering concerns eventually gave rise to vaccine hesitancy. The rise of social media further fuelled vaccine hesitancy in society, which is,

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<sup>1</sup> Harun Mahmud Hashim, “Ethics in the Legal Profession: Now and the Future,” *Malayan Law Journal* Articles 2, no. 81 (1993).

<sup>2</sup> World Health Organization, “Ten Threats to Global Health in 2019,” World Health Organization, 2019, <https://doi.org/10.4018/978-1-5225-7289-3.ch001>.

<sup>3</sup> Joao Gentil, “Vaccine refusal/hesitancy—the ethical point of view,” *The European Journal of Public Health*, 31(Suppl 2), ckab120.029. <https://doi.org/10.1093/eurpub/ckab120.029>

unfortunately, on the increase daily.<sup>4</sup> As vaccine hesitancy may impose a global threat given its worldwide magnitude factors, it must be identified and tackled with the greatest urgency.<sup>5</sup>

## ANALYSIS AND DISCUSSION

### The Universal Right to a Healthy Life

The right to health is guaranteed under Article 25 of the Universal Declaration of Human Rights, which provides that everyone has the right to medical care in the event of illness or incapacity. In this regard, the International Covenant on Economic, Social, and Cultural Rights (ICESCR) guarantees the right to the highest attainable standard of physical and mental health, stating in Article 12(2)(c) that states parties to the ICESCR should take measures to "prevent, treat, and control epidemic, endemic, occupational, and other diseases." Article 6 of the International Covenant on Civil and Political Rights (ICCPR) further complements the ICESCR which stipulates that "every human person has an inherent right to life."

The ICCPR however provides a balance to the right to life in Article 18 of the same, that any person shall have freedom of beliefs "subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others". Thus, one could argue that responding to and taking precautions against a pandemic such as COVID-19 is a state obligation, depending on the state's available resources and that such efforts are progressive rather than immediate. It justifies governmental strategies such as lockdowns, quarantine, and even mass vaccination programmes through available legal instruments. Such moves were also warranted and reflected in national laws.

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<sup>4</sup> Jonathan Kennedy, "Vaccine Hesitancy: A Growing Concern," *Pediatric Drugs* 22, no. 2 (2020): 105–11, <https://doi.org/10.1007/s40272-020-00385-4>.

<sup>5</sup> Abram L. Wagner et al., "Vaccine Hesitancy and Concerns About Vaccine Safety and Effectiveness in Shanghai, China," *American Journal of Preventive Medicine* 60, no. 1 (2021): S77–86, <https://doi.org/10.1016/j.amepre.2020.09.003>.

Against this background, Malaysia is no different from other states in the world that care for the health of its citizens. Fundamental liberties are safeguarded under the Federal Constitution of Malaysia. Although there was no explicit provision in the Constitution defining the people's right to health, Justice Gopal Sri Ram in *Tan Tek Seng v. Suruhanjaya Perkhidmatan Pendidikan* [1996] 1 MLJ 261 had expanded the interpretation of 'life' in Article 5 to include the promises of a 'quality life,' which refers to a secure livelihood. Article 5(1) encompasses all aspects of life that are fundamental to it, including those that contribute to the overall quality of life. Similar to the ICCPR and others, the Federal Constitution qualifies the right to life with necessary restrictions imposed via enabling legislation to protect public health. For example, restrictions on freedom of movement pursuant to Article 9(2) of the Federal Constitution may be applied to protect public health.

In this regard, Article 9 is the umbrella legal framework that justifies the need for a lockdown and quarantine order in Malaysia, for example, during the COVID-19 outbreak. Section 11(3)(a) and (b) of the Prevention and Control of Infection Diseases Act 1988 further empowers the Minister of Health or his authorised officer with a pre-defined extent of authority for treatment or immunisation during an outbreak of an infectious disease. As a result, routine immunisation programmes are delivered exclusively as part of a government policy known as the National Immunisation Programme (NIP). Despite the global recognition of the right to a healthy life, not everyone can be persuaded to believe in the efforts to ensure a healthy livelihood, such as vaccinations, despite the mass availability of clinical evidence to support its efficacy.

The next part addresses the issue of vaccine hesitancy and the factors attributed to it.

### **Vaccine Hesitancy: A Myth or Fact?**

Vaccine hesitancy may be defined as a delay in accepting or refusing vaccines notwithstanding the availability of immunisation services.<sup>6</sup> In this context, vaccination hesitancy is influenced by both individual (e.g., emotions, values, risk perceptions, knowledge, or belief) and social,

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<sup>6</sup> Wagner et al.

cultural, political, and historical variables<sup>7</sup>. On the contrary, vaccine hesitation was also caused due to the growing distrust in the pharmaceutical sector, greater interest in natural products, and increased parental involvement in the immunisation decision-making process, rather than relying solely on the opinion of paediatricians.<sup>8</sup>

In this respect, Malaysia enjoys comprehensive vaccination coverage. As far as the COVID-19 vaccination is concerned, data from the Ministry of Health Malaysia as of 1<sup>st</sup> February 2022 reported that 97.9% of the adult population have been fully vaccinated.<sup>9</sup> However, there is a steady increase in vaccine-preventable childhood diseases in society between 2013 to 2018 regrettably due to vaccine hesitancy.<sup>10</sup> Such are contributed by:- 1) Past experience with immunisation-related adverse events, 2) Perceived religious prohibition, 3) Beliefs of traditional complementary and alternative medicines, 4) Pseudoscience beliefs, 5) Anti-vaccine conspiracy theories, and anti-vaccination hearsay and rumours.<sup>11</sup> Yvonne and Ghani also highlighted that vaccine hesitancy might be caused by parents' distrust of the presence of ritually unclean materials (*najs*) in vaccines.<sup>12</sup> Clearly, vaccine hesitancy is a

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<sup>7</sup> Eve Dubé and Noni E. MacDonald, "How Can a Global Pandemic Affect Vaccine Hesitancy?," *Expert Review of Vaccines* 19, no. 10 (2020): 899–901, <https://doi.org/10.1080/14760584.2020.1825944>.

<sup>8</sup> Mariam Siddiqui, Daniel A. Salmon, and Saad B. Omer, "Epidemiology of Vaccine Hesitancy in the United States," *Human Vaccines and Immunotherapeutics* 9, no. 12 (2013): 2643–48, <https://doi.org/10.4161/hv.27243>.

<sup>9</sup> Ministry of Health Malaysia, "COVIDNOW in Malaysia - COVIDNOW," Ministry of Health Malaysia, September 2021.

<sup>10</sup> Khairun Nisaa Asari, Yuhanif Yusof, and Rohizan Halim, "Ethical Considerations for Compulsory Childhood Vaccination in Malaysia," *International Journal of Law, Government and Communication* 6, no. 22 (2021): 197–205, <https://doi.org/10.35631/ijlgc.6220019>; L. P. Wong, P. F. Wong, and S. AbuBakar, "Vaccine Hesitancy and the Resurgence of Vaccine Preventable Diseases: The Way Forward for Malaysia, a Southeast Asian Country," *Human Vaccines and Immunotherapeutics* 16, no. 7 (2020): 1511–20, <https://doi.org/10.1080/21645515.2019.1706935>.

<sup>11</sup> Wong, Wong, and AbuBakar, "Vaccine Hesitancy and the Resurgence of Vaccine Preventable Diseases: The Way Forward for Malaysia, a Southeast Asian Country."

<sup>12</sup> Yvonne S.K. Khoo et al., "Unique Product Quality Considerations in

problem that can defeat collective immunisation efforts if left unaddressed.

On the other hand, vaccination policy and practice in England during the first half of the nineteenth century demonstrated that regulation was instrumental towards the development of public health and state medicine.<sup>13</sup> Faced with the horrific smallpox outbreak, the state looked to the law for authoritative and scientifically informed remedies. Vaccine hesitancy, on the other hand, is not a new phenomenon. Anti-vaccination sentiments began to emerge several decades after the smallpox vaccine was introduced in the 1800s. In 1905, the United States Supreme Court in the case of *Jacobson v. Massachusetts* 197 U.S. 11 (1905) upheld states' ability to enact laws requiring compulsory smallpox vaccination, notwithstanding some level of public dissent. Hence, the establishment of a robust legal framework is deemed necessary to assure the effectiveness of vaccination programmes and to handle their associated issues and challenges.

However, in today's environment, regulating vaccinations per se has been a complex issue for the World Health Organisation and governments. This becomes more obvious when vaccine implementation is questioned by individuals and groups doubted on their advantages - something that has grown increasingly common over the last decade.<sup>14</sup>

### **Vaccine Hesitancy in Malaysia: Challenges**

In a recent 2021 research, Jason Ng Wei Jian found that 32% of respondents aged 18-30 were either hesitant or had no intention of being vaccinated against the COVID-19 pandemic. The study was performed after Malaysia reached a new all-time highest of 9000 cases in late May 2021. More innovative techniques are needed to alter attitudes through

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Vaccine Development, Registration and New Program Implementation in Malaysia,” *Human Vaccines and Immunotherapeutics* 16, no. 3 (2020): 530–38, <https://doi.org/10.1080/21645515.2019.1667206>.

<sup>13</sup> Ubaka Ogbogu, “The Scope and Limits of Legal Intervention in Controversies Involving Biomedicine: A Legal History of Vaccination and English Law (1813-1853),” 2009-2010 (Toronto, 2010).

<sup>14</sup> Kathryn M. Edwards et al., “Countering Vaccine Hesitancy,” *Pediatrics* 138, no. 3 (2016), <https://doi.org/10.1542/peds.2016-2146>.

diverse modalities such as peer groups and young champions in addition to comprehensive efforts. The study discovered that social influence, or a person's view that their closest friends and family believe they should get vaccinated, might aid increase vaccination intention. Seniors who are more at risk will almost certainly get significant encouragement to be vaccinated from their network of family and friends.<sup>15</sup>

Youth, on the other hand, are less likely to take signals from peers who have lower vaccination intentions. Vaccine rollout strategy should take into account a variety of incentives that will encourage individuals to be vaccinated, particularly those who are undecided or have no intention of getting vaccinated. Special emphasis should be placed on youth - they are at a lower risk of serious infection-related consequences, and the advantages are less obvious. Encouraging adolescents to accept the vaccine may have self-reinforcing effects since social influence is critical in increasing vaccination intention.

As stated earlier, not all issues that surround vaccine hesitancy are medical in nature, but a large part of them is social-legal. The next section analyses the issues surrounding vaccine hesitancy in Malaysia, namely 1) mandated vaccination, 2) right to disclosure of information, 3) medical malpractice, 4) religious sentiments and 5) infodemic and fake news. The next part addresses the first factor, namely, compulsory vaccination.

### ***Compulsory Vaccination and Adverse Event Following Immunization (AEFI)***

In a recent update, the United States Food and Drug Administration (FDA) announced the first approval of a Pfizer-BioNTech COVID-19 vaccine on 23<sup>rd</sup> August 2021 now known as 'Comirnaty'. It is indicated for the prevention of COVID-19 infection in adults 16 years of age and older. The United States Food and Drug Administration approved a second COVID-19 vaccine on 31<sup>st</sup> January 2022. The vaccine previously known as the Moderna COVID-19 Vaccination - will be marketed as 'Spikevax' and will be used to prevent COVID-19 infection in adults aged 18 years and older. These vaccines went through clinical trials

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Monash University, "Researchers Investigate Vaccine Hesitancy among Malaysians - Malaysia," Monash University, August 2021.

involving tens of thousands of participants. Nonetheless, the vaccine's rapid development and approvals have created safety and efficacy concerns for some healthcare workers and the public.<sup>16</sup>

For the COVID-19 vaccines to be legally administered in Malaysia, Regulation 7 of the Control of Drugs and Cosmetics Regulations 1984 requires such products to be registered with the Drug Control Authority (DCA) of the National Pharmaceutical Regulatory Authority Malaysia and hold appropriate licenses as required. In this regard, the DCA granted Comirnaty Concentrate for Dispersion for Injection (Belgium) a conditional registration on 8th January 2021. On 15 June 2021, the DCA approved the use of this vaccination in individuals aged 12 years and older, expanding the previously approved indication to individuals aged 18 years and older. The DCA concluded on 8th October 2021 that a booster dosage of Comirnaty may be given at least six months following the second dose to individuals 18 years of age and older. Additionally, persons aged 12 years and older who are severely immunocompromised may receive a third dosage at least 28 days after the second dose.<sup>17</sup>

Despite the above development, public trust in vaccination as an illness prevention tool may be influenced by perceived AEFI risks. Syed Alwi revealed that COVID-19 vaccine hesitancy was found in 16.7% of 1411 respondents, which is a significant fraction. In the hesitant group, 95.8% said they refused vaccination owing to vaccination side effects. Soreness at the injection spot, fatigue, headache, muscular pain, joint pain, and fever were the most commonly reported side effects. Adverse reactions were more common after the second dose in immunisation trials. Another 28% opposed vaccines in general, 22.5 % thought COVID-19 was safe, 20.8 % cited religious reasons, 17.8 % believed in traditional remedies, and 16.1 % feared injections.<sup>18</sup>

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<sup>16</sup> American Academy of Family Physicians, "Four Reasons for COVID-19 Vaccine Hesitancy among Health Care Workers, and Ways to Counter Them," American Academy of Family Physicians, April 2021.

<sup>17</sup> National Pharmaceutical Regulatory Agency Malaysia, "Frequently Asked Questions (FAQ) about COVID-19 Vaccine," National Pharmaceutical Regulatory Agency Malaysia, October 2021.

<sup>18</sup> S. A.R. Syed Alwi et al., "A Survey on COVID-19 Vaccine Acceptance and Concern among Malaysians," *BMC Public Health* 21, no. 1 (2021): 1–12, <https://doi.org/10.1186/s12889-021-11071-6>.

On the other hand, those who refuse vaccination must be given serious attention since they can influence others, especially for those who are undecided but aware of the vaccine's AEFI risks. Social media has become a nesting ground to spread misinformation about the COVID-19 vaccines – only later to find themselves treated by the same doctors that they detested.<sup>19</sup> Nevertheless, severe adverse effects such as anaphylaxis are rare, and the hazards of the COVID-19 infection outweigh the risks of immunisation.

There is, however, evidence that vaccine data can help alleviate these fears. Knowledge of a particular vaccine enhanced healthcare workers' readiness to suggest it. Concerns regarding the pace of COVID-19 vaccine development, for example, are frequently predicated on the incorrect idea that mRNA technology — which was utilised to generate the first two COVID-19 vaccines authorised in the United States — is novel. However, the first effective application of mRNA technology in animals was reported over 30 years ago, and enormous advances have been achieved in the mRNA technology during the last decade. In this regard, governments, public health organisations, and private health care systems can collaborate to ensure that the public receives correct vaccine information. The greater availability of vaccination safety and efficacy data may have contributed to the vaccine's current surge in popularity.<sup>20</sup>

With regard to the COVID-19 vaccination, the Malaysian authorities have yet to make the vaccination compulsory for its citizens. However, employers have mandated their employees to take such vaccination to ensure that they can begin business operations safely. The Public Service Department has issued a circular mandating all public officers to have the COVID-19 vaccine to ensure a safe reopening of all public sectors. This acts as a measure to gain public trust and safety for clients who seek public services.<sup>21</sup> Public officers who failed to get vaccinated after 31<sup>st</sup> December 2021 will face disciplinary action under the Public

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<sup>19</sup> Suhana Md Yusop, "Apabila Doktor 'Penyelamat' Jadi Geng Antivaksin - Kosmo Digital," *Kosmo*, January 2022.

<sup>20</sup> American Academy of Family Physicians, "Four Reasons for COVID-19 Vaccine Hesitancy among Health Care Workers, and Ways to Counter Them."

<sup>21</sup> Teh Athira Yusof, "Mandatory Vaccination for All Civil Servants, Says PSD," *News Straits Times*, September 2021.

Officers (Conduct and Discipline) Regulations 1993. However, those who cannot be vaccinated due to medical reasons are advised to obtain clearance from medical specialists to be exempted from such requirements.

Having said that, there is no legislation prohibiting companies in Malaysia from imposing mandatory vaccination programmes. As the COVID-19 pandemic is still ongoing, there are no recorded court cases in Malaysia that decide on the validity of mandatory vaccination policy. Employers may make the COVID-19 immunisation necessary for workers if the necessity is enforced by the government, i.e. if the relevant ministries make employee vaccinations required or a pre-condition for operating authorisation.<sup>22</sup>

Employers may also examine the following factors before requiring vaccinations: sector of industry; kind of services; vulnerability of labour force; Third-party exposure; alternative measures to ensure business viability include telecommuting and segregating vaccinated and unvaccinated staff. In this regard, employers must use caution when mandating vaccination, as certain employees may be unable to obtain the COVID-19 immunisation owing to a pre-existing medical condition.

One may ask whether it is permissible for an employee to decline COVID-19 vaccine? As there is no law mandating this vaccination at the moment, Christian argued that employees do have the freedom to opt-out of vaccinations.<sup>23</sup> Legitimate reasons for an employee to refuse vaccination include religious or medical reasons. Employees are encouraged, but not legally required to provide documentation to back their refusals.

However, such may be detrimental to employers who are under an obligation to provide a safe working environment as per Section 15 and 16 of the Occupational Safety and Health Act 1994 (OHSA). The OHSA requires employers to take all reasonable and feasible measures to safeguard the health and safety of all employees while on the job. Therefore, employers should complete a COVID-19 risk assessment to

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<sup>22</sup> Christian Swoboda and Geetha Salva, "Possible or Not: Legal Status of Mandatory Covid-19 Vaccination for Employees in Malaysia | Rödl & Partner," Rodl & Partner, September 2021.

<sup>23</sup> Christian Swoboda and Geetha Salva.

comply with this requirement. Employers should determine if vaccination of their staff is essential based on the risk assessment. If the response is positive, businesses should establish a COVID-19 immunisation policy and educate employees on why the policy is required. Employers would also be obliged to get consent from each employee for the COVID-19 immunisation. At the moment, employers are not prohibited by law from having a mandatory vaccination programme. Any disciplinary action taken against an employee for insubordination must be reasonable and justified.<sup>24</sup>

The next section discusses the right to disclosure of information that becomes another factor affecting COVID-19 vaccine hesitancy.

### ***The Right To Disclosure of Information***

It is an established principle in medical law that doctors owe a duty of care arising out of the doctor-patient relationship. The principle had its origin from the 'neighbourhood principle' decided in the landmark case of *Donoghue v. Stevenson* that:

“You must take reasonable care to avoid acts and omissions, which you reasonably foresee would be likely to injure your neighbour ...Who then, in law, is my neighbour — persons who are closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my minds to acts or omissions which are called in question”.<sup>25</sup>

In some instances, the application of the 'neighbourhood principle' may result in doctors owing a duty of care to third parties. For instance, physicians owe a duty of care to those who are reasonably likely to be harmed by the patient's infectious condition. In *Hill v Chief Constable of West Yorkshire and Home Office v. Dorset Yacht Co Ltd*, the courts held that doctors are only liable for warning a third party who may be harmed by a patient's condition if there is evidence of a reasonably anticipated injury to an identified victim. At the same time, there is an established

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<sup>24</sup> Christian Swoboda and Geetha Salva.

<sup>25</sup> Haniwarda Yaakob, “Genetic Test Results: Should Doctors Owe a Duty of Care to Warn Patient’s Family Members?,” *Malayan Law Journal Articles* 6 (2017): 5–12.

ethical responsibility under the common law for doctors to maintain the strictest level of confidentiality about their patients' medical information.

The ethical obligation to maintain confidentiality dates back to the classic Hippocratic Oath. Later, several codes of ethics added the obligation of doctors to maintain the confidentiality of information provided by their patients. For instance, the World Medical Association's International Code of Medical Ethics declares that "a physician shall respect a patient's right to confidentiality." This position has been reflected in the Malaysian Medical Council (MMC) 1986 Code of Professional Conduct, which states that a practitioner may not unlawfully reveal information obtained in confidence from or about a patient.

This principle of confidentiality is critical in medical practice to guarantee that patients can freely share medical information and symptoms with their doctors without any fear of unnecessary information leakage to the third party. On this note, Siti Norma Yaakob FCJ in *Foo Fio Na v. Dr Soo Fook Mun & Anor* [2007] 1 MLJ 593;<sup>26</sup> held that without the doctor-patient relationship, the doctor has no obligation to diagnose, advise, or treat his or her patient.<sup>27</sup> Even prior to the *Foo Fio Na* ruling, it was widely acknowledged that the three parts of medical care that would trigger a duty of care are diagnosis, advice, and treatment relating to patient care. Medical advice includes a responsibility to seek adequate permission from the patient prior to initiating treatment.<sup>28</sup>

The above general principle has been qualified in the case of *Attorney General v. Guardian Newspapers and others (No 2)*, which is notable for this work.<sup>29</sup> It has highlighted three exceptions in which a violation of confidentiality may be justified. Firstly, confidentiality applies exclusively to information that has not reached the public domain. Second, the information that is safeguarded must be meaningful and not insignificant. Thirdly, conflicting public interests that compel

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<sup>26</sup> *Foo Fio Na v. Dr Soo Fook Mun & Anor* [2006] 2 MLRA 410

<sup>27</sup> See p 601 (MLJ); p 414 (MLRA), para 26)

<sup>28</sup> Puteri Nemie Jahn Kassim, "Medical Paternalism Versus Patient Autonomy: Solving Conflicts In Medical Decision-Making," *Malayan Law Journal Articles* 2 (2003): 34.

<sup>29</sup> *Attorney-General v Guardian Newspapers Ltd (No 2)* [1990] 1 AC 109

the publication of such information may surpass the obligation of confidentiality. The public interest exception to the requirement to preserve confidentiality articulated in *Attorney General v Guardian Newspapers and others (No 2)* also appears in the Malaysian Medical Council's (MMC) 2011 Confidentiality Guideline. Section 3 of the Guideline permits the disclosure of confidential information in three circumstances: (a) where the law compels disclosure; (b) when the patient consents; or (c) when the public interest justifies disclosure.<sup>30</sup>

According to Section 34 of the MMC Confidentiality Guideline 2011, personal information may be disclosed due to the public interest without the patient's consent. In exceptional cases, where patients have withheld consent, such information may be disclosed when the benefits to an individual or society outweigh the public and patient's interest in maintaining confidentiality. When a doctor contemplates sharing information without the patient's consent, the doctor must assess the potential harm (both to the patient and the broader trust between doctors and patients) against the likely advantages of the disclosure. In this regard, there has not been any Malaysian court case that could guide doctors in balancing the two conflicting interests.

Since the COVID-19 pandemic is the first global outbreak for doctors around the world in the 21<sup>st</sup> century, they are learning about the COVID-19 virus and its possible treatments 'on the go'.<sup>31</sup> There is much new information that was retrieved on daily basis. When learning and treating at the same time, it is reasonable that doctors were in a dilemma when certain complications occurred to the patients. Although the situation has much improved in 2022, there has not been any statutory duty of disclosure – or the duty of candour imposed on the doctors in Malaysia.

Duty to candour refers to a position where the hospital must act in transparency in relation to care and treatment.<sup>32</sup> Hence, the patient

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<sup>30</sup> *Attorney-General v Guardian Newspapers Ltd (No 2)* [1990] 1 AC 109

<sup>31</sup> World Health Organisation, "WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 - 11 March 2020," World Health Organisation, March 2020.

<sup>32</sup> Alec Samuels, "The Duty of Candour: Openness, Transparency and Candour," *The Medico-Legal Journal* 85, no. 3 (2017): 138–40, <https://doi.org/10.1177/0025817216688387>.

should be told the essence of what has happened, and the implications, both short-term and long-term. Soraya and Cheong expressed their concerns about the lack of legal force upon medical practitioners to be open and honest with the COVID-19 patients when something went wrong.<sup>33</sup> In comparison to countries like the United Kingdom, the legal duty upon medical practitioners to candour was introduced through the UK Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. Failing to execute duty to candour on the part of the patient also incurs liability under the common law, as highlighted in the case of *Her Majesty's Advocate v. Stephen Robert Kelly*.<sup>34</sup>

On the contrary, the Malaysian PCIDA imposed several legal duties to candour to the patients. Section 10 requires that upon becoming aware of the presence of an infectious disease in a house, any adult occupant thereof, any person in charge of, or in the company of, and any person who is not a medical practitioner attending on, any person suffering from or who has died of an infectious disease shall notify the officer in charge of the nearest district health office, government health facility, or police station, with the shortest possible delay. Section 12 of the PCIDA further provides that “No person who knows or has reason to believe that he is suffering from an infectious disease shall expose other persons to the risk of infection by his presence or conduct in any public place or any other place used in common by persons other than the members of his own family or household.” Further, Section 269 of the Penal Code criminalises any act which is unlawful or negligent conduct which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life. On the other hand, Section 270 further criminalises malignant acts likely to spread infection of any disease dangerous to life.

In this regard, statutory duty for disclosure was imposed on patients and other relevant persons – excluding medical practitioners. It is argued that because transparency is critical in combating vaccine hesitancy, it would be preferable if medical practitioners also shoulder the statutory

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<sup>33</sup> Raja Eileen Soraya and Cheong Jun Kid, “Covid-19 — a Patient ’ s Duty to Be Honest,” *The Edge Markets*, 2020, <https://www.theedgemarkets.com/article/covid19—patients-duty-be-honest>.

<sup>34</sup> *Her Majesty's Advocate v. Stephen Robert Kelly* [2001] Scot HC 7.

duty of disclosure, particularly during the COVID-19 outbreak. Transparency is one of the keys to combat vaccine hesitancy, as rightly pointed out by the Office of the High Commissioner, United Nations Human Rights, that non-discriminatory access to accurate health information is essential to combat COVID-19.<sup>35</sup>

The next part analyses the third issue that influenced COVID-19 vaccine hesitancy in Malaysia, namely religious beliefs and sentiments.

### ***Misleading Religious Beliefs and Sentiments***

It is undeniable that Article 11 of the Federal Constitution grants Malaysian citizens the right to freedom of religion, save in accordance with the law. At the same time, citizens have freedom of opinion of their own guided by the religion of choice. However, to a significant extent, there is a considerable increase in vaccine hesitancy among parents to accept childhood vaccination, surprisingly among more educated parents – citing religious concerns. The refusal of parents to get their children vaccinated has almost reached three-fold; where from 470 cases in 2013, to 1054 cases as of May 2015.<sup>36</sup>

As far as COVID-19 vaccination is concerned, the vaccination programme for kids started in February 2022 and is targeted to reach more than half of the Malaysian children population by month-end. Despite 97.9% of the adult population receiving vaccination, parents enrolled a total of 517,107 children aged five to eleven years in the country for the Pfizer COVID-19 vaccine, according to the Health Minister Khairy Jamaluddin. Such represented merely 15% of the 3.6 million children population.<sup>37</sup>

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<sup>35</sup> Office of the High Commissioner United Nations Human Rights, “Human Rights and Access To Covid-19 Vaccines,” United Nations, 2020, [https://www.ohchr.org/Documents/Events/COVID-19\\_AccessVaccines\\_Guidance.pdf](https://www.ohchr.org/Documents/Events/COVID-19_AccessVaccines_Guidance.pdf).

<sup>36</sup> Ali Ahmed et al., “Outbreak of Vaccine-Preventable Diseases in Muslim Majority Countries,” *Journal of Infection and Public Health* 11, no. 2 (2018): 153–55, <https://doi.org/10.1016/j.jiph.2017.09.007>.

<sup>37</sup> The Star, “Covid-19: Over 500,000 Kids Aged Five to 11 Registered for Vaccine, Says Khairy | The Star,” The Star, February 2022.

This occurrence is not only exclusive to Malaysia but happens in other Muslim countries such as Saudi Arabia. In Saudi, 80% of parents refused to give consent to get their children vaccinated with the COVID-19 vaccine.<sup>38</sup> Such hesitancy was attributed to the misconception of parents towards vaccines, on top of the wild religious-sensitive speculations that vaccine is a plot to weaken the Muslim community, or schemes to transmit diseases to non-western-communities.<sup>39</sup> In comparison, it was discovered that the Buddhists refused COVID-19 vaccines the most, and that the Buddhists are twice more likely to hesitate than the Muslims.<sup>40</sup> However, recent studies among the UK and US citizens have not shown the significance of religion as a factor for vaccine hesitancy.<sup>41</sup>

As a general rule, Shariah law prohibits the use of ingredients from *haram* (forbidden) sources, especially if it contains the essence of pig or its derivatives as mentioned in Surah Al-Baqarah, verse 173:

“He has only forbidden to you dead animals, blood, the flesh of swine, and that which has been dedicated to other than Allah. But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], there is no sin upon him. Indeed, Allah is Forgiving and Merciful.”<sup>42</sup>

When we mention religious sensitivity as a rationale for the COVID-19 vaccine hesitation, it is argued that some Muslims in Malaysia lack a thorough religious grasp of the Shariah prohibition on the use of forbidden substances in vaccine production. This is critical as studies have found that *halal* (permissible) status of a vaccine is crucial when deciding whether to accept vaccination or otherwise.<sup>43</sup> The erroneous

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<sup>38</sup> Ahmed et al., “Outbreak of Vaccine-Preventable Diseases in Muslim Majority Countries.”

<sup>39</sup> Ahmed et al.

<sup>40</sup> Syed Alwi et al., “A Survey on COVID-19 Vaccine Acceptance and Concern among Malaysians.”

<sup>41</sup> Syed Alwi et al.

<sup>42</sup> The Qur’an 2:173

<sup>43</sup> Li Ping Wong and I. Ching Sam, “Factors Influencing the Uptake of 2009 H1N1 Influenza Vaccine in a Multiethnic Asian Population,” *Vaccine* 28, no. 28 (2010): 4499–4505, <https://doi.org/10.1016/j.vaccine.2010.04.043>; Wong, Wong, and AbuBakar, “Vaccine Hesitancy and the Resurgence of Vaccine Preventable Diseases: The Way Forward for Malaysia, a Southeast

notion held by certain Muslims is that vaccines are infected with pig's DNA, thereby prohibiting Muslims from receiving vaccinations.<sup>44</sup>

Such a position does not reflect a comprehensive understanding of the Shariah law - as the general rule comes with exceptions in the case of the necessity to preserve life (*dharurah*).<sup>45</sup> In the event of the absence of effective *halal* sources to treat a disease, using vaccines made from prohibited substances would be permissible.<sup>46</sup> In the context of COVID-19 vaccines, the manufacturers have confirmed that no pig essence or other prohibited ingredients were used in the manufacturing processes.<sup>47</sup> In other kinds of vaccines, even if the *haram* substances were present, modern Muslim jurists such as Sheikh Yusuf Al-Qaradawi dan Sheikh Wahbah Al-Zuhaili confirmed that its use is permissible since the ingredients have changed its chemical construction and physical features to different elements and forms, then it is *halal* and clean to be consumed.<sup>48</sup>

To support this notion, national and international Fatwa Councils have also issued rulings on the permissibility of vaccination.<sup>49</sup> The 10th Special Meeting of the *Muzakarah* Committee of the National Council for Islamic Religious Affairs Malaysia (MKI) attended by State Muftis and experts on 3 December 2020 has also decided that the taking of

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Asian Country.”

<sup>44</sup> Victoria Milko, “Concern among Muslims over Halal Status of COVID-19 Vaccine - ABC News,” ABCNews, December 2020; Ahmed et al., “Outbreak of Vaccine-Preventable Diseases in Muslim Majority Countries.”

<sup>45</sup> Ahmed et al., “Outbreak of Vaccine-Preventable Diseases in Muslim Majority Countries.”

<sup>46</sup> Ahmed et al.

<sup>47</sup> Victoria Milko, “Concern among Muslims over Halal Status of COVID-19 Vaccine - ABC News.”

<sup>48</sup> Muhammad Basir Roslan, “Vaksin COVID Menurut Perspektif Islam | COVID-19 MALAYSIA,” Bernama, January 2021; Khoo et al., “Unique Product Quality Considerations in Vaccine Development, Registration and New Program Implementation in Malaysia.”

<sup>49</sup> Khoo et al., “Unique Product Quality Considerations in Vaccine Development, Registration and New Program Implementation in Malaysia.”

COVID-19 vaccine is encouraged (*harus*), and it compulsory (*wajib*) to be taken by the group designated by the authorities.<sup>50</sup>

Nonetheless, the aforementioned rulings appear to have had little effect on eradicating vaccination hesitancy in Malaysia, as religious misunderstanding is exacerbated further by misinformation and disinformation, notably on social media, as explained below.

### ***The Spread of Misinformation and Disinformation on COVID-19 Vaccination***

Freedom of speech in Malaysia is generally guaranteed under the Federal Constitution, subject to several exceptions. This is consistent with the precedent set in the case of *Lim Kit Siang v Dato' Seri Dr Mahathir Mohamed*, where in delivering his judgment, Harun Hashim J said:

“ ... The right of every individual (including the Prime Minister) to freedom of speech in this country has been consistently upheld by courts subject only to any restrictions that are prescribed by the Constitution itself. There is no reason to deny the right to the respondent in the instant case...”<sup>51</sup>

Despite the guarantees stipulated under the Federal Constitution, such freedom has been exposed to abuse, mainly in the form of misinformation and disinformation. Misinformation during the pandemic can lead to unwarranted panic among the society. A misled population would demand governments to adopt misguided policy options, which are not based on empirical evidence or science. The disclosure and sharing of those misleading information are worsening due to the blurry line between what is deemed to be public interest and what is appealing to the public.<sup>52</sup> Misinformation occurs when false

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<sup>50</sup> Rafidah Mat Ruzki, “Hukum Vaksin COVID-19 Harus - Mufti Wilayah,” *Berita Harian*, February 2021.

<sup>51</sup> *Lim Kit Siang v Dato' Seri Dr Mahathir Mohamed* [1987] 1 MLJ 383. See p 385-386

<sup>52</sup> Harris Zainul and Farlina Said, “The COVID-19 Infodemic in Malaysia Scale , Scope and Policy Responses,” *ISIS Malaysia* (Kuala Lumpur, 2020), [https://www.isis.org.my/wp-content/uploads/2020/08/FAKE-NEWS\\_REV.pdf](https://www.isis.org.my/wp-content/uploads/2020/08/FAKE-NEWS_REV.pdf).

information is shared without any intention to harm others. The spread of disinformation happens when one share false information to cause harm to others.<sup>53</sup>

As of September 2020, 268 investigation papers have been opened by the authorities on fake news related cases of COVID-19. From that, 131 cases are still under probe, 35 have been charged in court, 12 were issued with warning notices, 16 are still on trial, and 19 had pleaded guilty.<sup>54</sup> The number is assumed to be on the rise in 2021 as the COVID-19 vaccination programmes in on the rollout to the public beginning in March 2021.<sup>55</sup> In 2021, the police filed two criminal charges against persons suspected of being associated with anti-vaccine organisations that spread misleading information about the COVID-19 immunisation on social media.

The first investigation under Sections 504 and 505 of the Penal Code is based on a video in which a lady alleged that the deaths of two students in Ipoh, Perak, were due to their COVID-19 immunisation. The investigations were for making a statement to incite fear or public panic and inciting a breach of the peace.<sup>56</sup> The second investigation paper charged the owner of the Twitter account 'Khalid@khalids' for making an accusation that 41 teachers have died as a result of the COVID-19

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<sup>53</sup> Mahyuddin Daud and Sonny Zulhuda, "Regulating the Spread of False Content Online in Malaysia: Issues, Challenges and the Way Forward," *International Journal of Business and Society* 21, no. S1 (2020): 32–48; Mahyuddin Daud, "Freedom of Misinformation and the Relevance of Co-Regulation in Malaysia: A Cross-Jurisdictional Analysis," *IIUM Law Journal* 29, no. 2 (2021): 27–54, <https://doi.org/10.1016/j.clsr.2019.105373>.

<sup>54</sup> Nor Ain Mohamed Radhi, "Fake Covid-19 News: Authorities Open 268 Investigation Papers," *New Straits Times*, 2020, <https://www.nst.com.my/news/crime-courts/2020/09/627223/fake-covid-19-news-authorities-open-268-investigation-papers>.

<sup>55</sup> Bernama, "Police to Come down Hard on COVID Vaccine Fake News - Acryl Sani | Astro Awani," *Astro Awani*, February 2021.

<sup>56</sup> Ivan Loh, "Two Police Reports Lodged Over Fake Claims on Perak School Students Dying From Covid-19 Vaccine," *The Star Online*, 2021, <https://www.thestar.com.my/news/nation/2021/09/29/two-police-reports-lodged-over-fake-claims-on-perak-school-students-dying-from-covid-19-vaccine>.

vaccination.<sup>57</sup> This case was investigated under Section 233 of the Communications and Multimedia Act and Section 505 of the Penal Code respectively. The above were just two cases out of many other theories and speculations circulated on social media, including the vaccine contains microchips, vaccination is Israeli's agenda to conquer the world, and vaccine changes one's DNA.<sup>58</sup>

When contemplating vaccination hesitancy, conspiracy theories cannot be ignored. Conspiracy theories flourish at times of crisis, when people feel frightened, unsure, and insecure — a condition reminiscent of the COVID-19 pandemic. Anti-vaccine conspiracy theories seem to lower vaccination intentions by instilling excessive anxiety about vaccine hazards and fostering emotions of powerlessness, disappointment, and mistrust in authority.<sup>59</sup> Thus, appropriate steps must be adopted to mitigate the detrimental effects of conspiracy theories. These include developing an ethical and responsible mass media in collaboration with media regulatory authorities on statement guidelines regarding the COVID-19 pandemic, addressing religious elements surrounding conspiracy theories, enforcing strict measures by healthcare authorities, and increasing awareness about COVID-19 to reduce negative perceptions among the general public.<sup>60</sup>

In this regard, the Malaysian government has employed two approaches in combating misinformation and disinformation about COVID-19 through non-legal and legal means.

The non-legal means are executed through education-based, information, clarification approaches by using genuine state-sponsored websites, portals, or social media accounts to dispel myths.<sup>61</sup> For

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<sup>57</sup> Malaysiakini, "Cops Probe Netizen for Fake News Claiming 41 Teachers Died From Vaccine," Malaysiakini, 2021, <https://www.malaysiakini.com/news/594802>.

<sup>58</sup> Siti Fatimah Awang, "Vaksin Covid-19 Tiada Kaitan Agenda Yahudi," Sinar Harian, October 2021.

<sup>59</sup> Karen M. Douglas, "COVID-19 Conspiracy Theories," *Group Processes and Intergroup Relations* 24, no. 2 (2021): 270–75, <https://doi.org/10.1177/1368430220982068>.

<sup>60</sup> Syed Alwi et al., "A Survey on COVID-19 Vaccine Acceptance and Concern among Malaysians."

<sup>61</sup> Harris Zainul, "Malaysia's Infodemic and Policy Response," *ISIS Policy*

instance, *Sebenarnya.my* is widely used by the public as a medium to clarify any information that has been circulated through social media in regard to the pandemic.<sup>62</sup> The mainstream media also plays a huge role in assisting the government's effort to dispel misinformation. The Ministry of Health Director-General, Dr. Noor Hisham Abdullah even declared that the media practitioners are the 'vaccine' needed to combat disinformation and misinformation concerning the pandemic.<sup>63</sup>

The legal means involve the application of relevant legislations, depending on the scope of each case. For example, Section 505(b) of the Penal Code which criminalised offence against 'public tranquillity' has been widely used to combat disinformation in regard to the pandemic.<sup>64</sup> The usage of such provision however had invited criticisms from many parties including a group of human rights advocates such as the UK-based ARTICLE 19. In this respect, ARTICLE 19 express their concern pertaining to the approach of the government that relied heavily on legal measures in stemming misinformation and disinformation.<sup>65</sup> In regards to this, they believed that legal measures should be used as a final

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*Brief*, no. 2–20 (2020): 1–4, [https://www.isis.org.my/wp-content/uploads/2020/06/POLICY-BRIEF\\_MALAYSIA-INFODEMIC-AND-POLICY-RESPONSE.pdf](https://www.isis.org.my/wp-content/uploads/2020/06/POLICY-BRIEF_MALAYSIA-INFODEMIC-AND-POLICY-RESPONSE.pdf).

<sup>62</sup> Harris Zainul, "Countering COVID-19 Anti-Vaccination Propaganda" (Kuala Lumpur, 2020), <https://www.isis.org.my/wp-content/uploads/2020/11/Countering-COVID19-Anti-Vaccination-Propaganda.pdf>.

<sup>63</sup> Emmanuel Santa Maria Chin, "Dr Noor Hisham: Media Is the 'Vaccine' to Covid-19 'Fake News,'" Malay Mail Online, 2021, <https://www.malaymail.com/news/malaysia/2021/02/05/dr-noor-hisham-media-is-the-vaccine-to-covid-19-fake-news/1947325>.

<sup>64</sup> Hafidz Hakimi Haron, Farid Sufian Shuaib, and Nadiah Arsat, "Some Like It Hoax : Lessons in Regulating Fake News in Malaysia," in *International Conferance on Communication and Media* (Sintok, 2020); Human Rights Watch, "Creating a Culture of Fear : The Criminilization of Peaceful Expression in Malaysia," 2015, [https://www.hrw.org/sites/default/files/report\\_pdf/malaysia1015\\_4up\\_0\\_0.pdf](https://www.hrw.org/sites/default/files/report_pdf/malaysia1015_4up_0_0.pdf).

<sup>65</sup> ARTICLE 19, "Malaysia: Stop Using Repressive Laws to Counter Misinformation about Coronavirus," Article 19, 2020, <https://www.article19.org/resources/malaysia-stop-using-repressive-laws-to-counter-misinformation-about-coronavirus/>.

option, which should be reserved for the most dangerous and serious forms of speech.<sup>66</sup> In addition to that, the subjectivity of criminal liability imposed under this provision also raised some concern, as it is much dependent on the subjectivity of reaction of the listener; of which whether it is likely to cause an alarm or otherwise.<sup>67</sup> Resulting from this aspect of the law, consequently, it may give leverage to the listener to hush any critics against him.

On the other hand, Section 233 of the Communications and Multimedia Act 1998 (CMA) regulates improper use of network facilities, including the internet, to publish false content with the intention to annoy or harass others. This provision is broad enough to throw a regulatory net on any misinformation or disinformation cases with extraterritorial applications. Despite such a position, misinformation on COVID-19 was one that is difficult to curb with regulation alone. When the Malaysian government declares the state of emergency in 2020, the Emergency Ordinance No.2/2020 that caters specifically to COVID-19 fake news was felt necessary to be enacted. It gave the government more powers to curtail fake news, but such was arguably futile as the volume of misinformation online seems unaffected by the enactment of the Emergency Ordinance.<sup>68</sup>

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<sup>66</sup> ARTICLE 19.

<sup>67</sup> Zainul, "Malaysia's Infodemic and Policy Response."

<sup>68</sup> Mahyuddin Daud and Abd Ghani Ida Madieha, "Digital Disinformation and the Need for Internet Co-Regulation in Malaysia," *Pertanika Journal of Social Sciences and Humanities* 29 (2021): 169–83, <https://doi.org/https://doi.org/10.47836/pjssh.29.S2.12> E-mail; Mahyuddin Daud, "Freedom of Misinformation and the Relevance of Co-Regulation in Malaysia: A Cross-Jurisdictional Analysis."

### ***Recommendations***

After examining the four primary issues and challenges that contributed to the COVID-19 vaccination hesitancy in Malaysia, it is clear that the issues were complex. While the right to a healthy life is universally recognised, it must be weighed against the individual's right to his or her person. This justifies some persons' reluctance to receive vaccination, specifically the COVID-19 vaccines. This article will refrain from discussing vaccine effectiveness clinically, as that is beyond the scope of this article. However, there is a need to strengthen advocacy and awareness efforts about the vaccine's benefits, rather than the AEFI's risks. When society receives accurate information regarding COVID-19 immunisation, it is suggested that more people will recognise the importance of self-and community protection.

Simultaneously, it is necessary to investigate the conflicting notions of private rights to one's person versus public rights to health – which concept prevails, and whether legislation is justified in infringing one's private right to one's body. Despite the state's authority and responsibility for public health, would enacting laws to justify vaccination programmes strike the appropriate balance without infringing on an individual's right to privacy? Particularly when the AEFI risks are present and the individual is required to consent in writing to the risks and bear them on his own. Although some states provide COVID-19 insurance as a remedy in the event of AEFI, the monetary compensation is certain to be limited. Whether the state is justified in violating an individual's right to his or her person through legislation, and should the state bears limited liability in the event of AEFI. Certainly, this is not a proportionate position for the individual who is 'forced' to consent to and bear the risks associated with AEFIs.

On this note, this article argues that information disclosure is critical for addressing COVID-19 vaccine hesitancy globally, not just in Malaysia. While we are still learning about the COVID-19 virus, treating physicians should make salient information readily available to patients and family members. It's disheartening to learn about a patient's condition only when he or she is on the verge of death since doctors in Malaysia do not have the same obligation to candour as doctors in the United Kingdom. On the other hand, patients are required by the law to disclose all personal information pertinent to treatment. This is how some irresponsible parties used social media to spread a heavily biased narrative about COVID-19 hospital treatments and vaccinations. As a

result, it fuelled misinformation and disinformation, thereby exacerbating vaccine hesitancy. Although 99 percent of the Malaysian adults were fully vaccinated, we can see a difference in parents' attitudes toward vaccination when it comes to their children. It is not exaggerating to say that parents have 'rescued' themselves (via vaccination) but have adopted a different attitude when it comes to 'rescuing' their children.

## CONCLUSION

On this note, it is believed that a balanced framework that incorporates law, advocacy, technology, and society is necessary to address COVID-19 vaccine hesitancy in Malaysia. Additional research is needed to determine whether mandating the COVID-19 vaccination via legislation is one measure capable of striking the delicate balance required between the state's right to preserve public health and the individual right to person. Restoring public trust and confidence in vaccination programmes is critical to repositioning our country as a leader in achieving the United Nations' Sustainable Development Goals (UNSDG) towards good health and wellbeing.

For hundreds of years, vaccines have been a crucial aid in the prevention of viral infections. Vaccination programmes have gained prominence as the major approach for combating the COVID-19 outbreak. Nonetheless, popular perceptions of COVID-19 immunisation programmes have usually been unfavourable. This is demonstrated by the fact that vaccine hesitancy continues to grow at an unprecedented rate daily as a result of advances in information and communication technologies. This study examined four major factors that contribute to the COVID-19 vaccine hesitancy in Malaysia: compulsory vaccination and adverse event following vaccination (AEFI), disclosure of information about COVID-19 patients, and misinformation and disinformation about COVID-19 patients. The research concludes that Malaysia's vaccine regulatory framework needs to be strengthened.