

Presentation by Mr Ian Kermodé Advocate

Villa Marina Promenade Suite, Douglas, Isle of Man.

Tuesday 14<sup>th</sup> December 2021

**“Human Rights and Civil Wrongs during the Pandemic”**

**A. Introduction**

Good evening ladies and gentlemen.

May I first of all thank the Community Group for hosting this event tonight and inviting me here as their guest.

Special thanks to Janet, Heidi, Bob and Martin for their practical support and also to those donors who financially contributed towards promotion and venue hire.

And above all, may I thank each one of you here tonight for attending.

For those who don't know me, I am a senior Manx Advocate who has practised criminal law on the Island for over 17 years.

A few housekeeping matters to mention.

The full transcript of this talk will be available by email or online hopefully tomorrow, should anyone wish to read the whole speech.

My presentation is in two parts and we will be having a refreshment break at the midway point.

And for the benefit of those off island, I will from time to time have to explain in simple terms a bit about the Isle of Man.

The Island is situated in the middle of the Irish Sea and is not part of the United Kingdom.

It is what is known as a Crown Dependency, in simple terms a semi-independent country and has a population of around 84,000.

## **B. Parameters of Presentation**

Can I begin by setting out what this talk is and is not about.

This presentation is not about seeking to discredit all vaccinations or trying to dissuade any person from being vaccinated against Covid-19. If someone gives their true informed consent to any medical treatment including vaccination that personal decision ought to be properly respected.

Equally, this talk is not about denying the existence of a form of respiratory illness currently circulating in society. Whether you wish to refer to it as Covid-19 or SARS - Cov 2 or just a form of Coronavirus like the common cold or flu, nevertheless there is a respiratory illness in circulation.

And this talk is also not about repeating the government narrative, namely that Covid-19 is a potentially lethal virus to us all, lockdown restrictions are justified and necessary in order to keep people safe and that everyone should be vaccinated as a matter of public duty. You have heard this narrative ad nauseum, until you are sick of hearing it, every day of every week of every month over the last year and a half.

But this is not a negative anti-this or anti-that talk. It is a positive presentation about respect and choice.

So what is this talk specifically about?

It is about introducing some balance in the public debate.

It is about putting the counter argument. And I make no apology whatsoever for doing so.

It is about putting the case that lockdown restrictions may not have been and may not now be necessary or proportionate and it is about putting the case that compulsory Covid vaccination may not be lawful and in fact crosses a red line of coercion.

Do note that we will necessarily need to touch briefly on the science of Covid-19 and vaccination. This is because restrictions on civil liberties around the world are inextricably linked to an understanding of the science.

I will be referring to legislation and Court cases but only in a very light touch way in the hope of making the subject as accessible as possible with no prior knowledge required.

## **PART ONE – GOVERNMENT LOCKDOWN RESTRICTIONS**

### **C. Legal Framework**

So let us begin by looking at government lockdown restrictions.

When we talk about civil liberties and human rights what do we mean?

Where do they come from and why do they exist in law?

I have picked out some of the main sources of the legal rights that we can currently rely upon as citizens in the Isle of Man and the United Kingdom.

This is the legal bit of the talk so bare with me.

#### i) Magna Carta

This is a royal charter of citizens' rights agreed by King John of England in 1215 at Runnymede in Surrey.

## Visual Clip 4

It was written using quill pens on sheets of parchment made from sheepskin. There are four original copies which survive, one is in Salisbury Cathedral.

Magna Carta means in English "*Great Charter*" and it set out rights and protections for English citizens.

The Charter contains around 63 rights or clauses including clause 39, which when translated from medieval latin reads, "*No free man shall be taken or imprisoned or dispossessed of his freehold, or liberties, or free customs or be outlawed or exiled or any otherwise destroyed, nor will we go upon him nor condemn him, except by the lawful judgement of his peers or the law of the land*".

That clause in effect became the basis of the right to trial by jury which we still enjoy today.

Although around 800 year old, the Magna Carta remains of enormous symbolic significance. The late Lord Denning, a former senior judge in England, described it as, "*The greatest constitutional document of all time – the foundation of the freedom of the individual against the arbitrary authority of the despot*".

### ii) UN Universal Declaration of Human Rights

This is a Declaration which was proclaimed by the United Nations General Assembly in Paris on 10<sup>th</sup> December 1948 and set out for the first time fundamental human rights to be universally protected all around the world.

## Visual Clip 5

The Preamble to the Declaration includes, "*Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of*

*the human family is the foundation of freedom, justice and peace in the world".*

Inalienable means cannot be taken away.

The Declaration contains 30 Articles, including Article 1, "*All human beings are born free and equal in dignity and rights*".

iii) European Convention on Human Rights

This dates from 1950 and is perhaps the single most important set of legal rights that a citizen can currently rely upon against the state.

In the Isle of Man, under the Human Rights Act 2001, it is unlawful for a public authority to act in a way which is incompatible with a convention right.

Here is a selection of the key rights in summarised form:

**Visual Clip 6**

**Article 3** - "No one shall be subjected to torture or inhuman or degrading treatment or punishment".

**Article 8** - "Everyone has the right to respect for his private and family life, his home and his correspondence".

**Article 9** - "Everyone has the right to freedom of thought, conscience and religion".

**Article 10** - "Everyone has the right to freedom of expression".

**Article 11** - "Everyone has the right to freedom of peaceful assembly and freedom of association with others".

Some of these rights are defined by the Court as being *absolute*.

This is a crucial concept because it means that they can never be interfered with in any circumstances.

Article 3 is an example of an absolute right.

### Birching – **Tyrer v UK**

In 1972 in the Isle of Man, a 15 year old juvenile called Mr Tyrer was given 3 strokes of the birch on his bare bottom for committing the offence of ABH.

The European Court of Human Rights subsequently ruled that birching constituted degrading treatment contrary to Article 3.

This case features as the Island's embarrassing footnote in Strasbourg jurisprudence.

So, whether there is a war or national emergency or health pandemic there can never be a justification for subjecting citizens to inhuman or degrading treatment. Absolute means what is says on the tin. It means never, it means non-negotiable and it means never again.

Interestingly, this Article also places the state under a positive obligation to carry out an effective investigation capable of leading to the identification and punishment of those responsible for alleged violations.

In contrast, other rights are described as *qualified* which means they can lawfully be interfered with, for example if it is necessary in the interests of public safety or the protection of the rights of others.

Any interference with qualified rights is subject to the test of *proportionality* which means in effect that the interference must be no more than is necessary to achieve one of the aims of the Convention.

Interference by the State with individual rights is also subject to a doctrine known as the *margin of appreciation*. This is the leeway granted to Member States in recognition of the cultural and political differences between them.

iv) Equality Act

This legislation makes it unlawful to discriminate in employment and provision of goods and services.

**Visual Clip 7**

In simple terms, it protects individuals from unfair treatment and promotes an inclusive society.

v) Data Protection Act

The Data Protection Act 2019 gives important rights regarding how your personal data is accessed, used and stored.

It sets out a number of data protection principles and provides rights of access to information and also rights regarding confidentiality. For example, businesses and governments can't play pass the parcel with your private information.

We will return to both the Equality Act and the Data Protection Act later.

**D. Why does the European Convention on Human Rights exist?**

That was a taster of some of our important foundational legal rights that we enjoy as citizens.

I am regularly contacted by complete strangers asking me what can be done about this or that restriction and do we have any legal rights. Well the answer is yes and that was a very brief look at a few of them.

I think it is very important to remind ourselves now about the genesis or formation of the Convention.

Well it has its roots in the very serious infringements of personal liberty arising during the First World War (1914 – 1918), the inter war years (1918 – 1939) and then the atrocities which culminated in the Holocaust during the Second World War (1939 – 1945).

Let us look at few examples of how personal liberty was impacted during those periods.

i) Internment on the Isle of Man

During the First World War 1914-1918, Britain was at war with Germany, Austria and the Ottoman Empire.

Following the sinking of the British passenger ship *Lusitania* on 7<sup>th</sup> May 1915, over 20,000 German, Austrian and Turkish men aged 17 – 55 living in Britain were rounded up and transported (under the Aliens Restriction Act 1914) to an Internment Camp called Knockaloe in the village of Patrick on the west coast of the Isle of Man.

**Visual Clip 8**

These were citizens who had not committed any crime whatsoever. Simply by reason of their nationality they were forcibly removed from their homes and work in England and placed in wooden huts behind barbed wire in the Isle of Man.

One of them was Joseph Pilates, the founder of the Pilates method of physical fitness.

There is no suggestion that any of the men were mistreated but they were forcibly detained for up to 3 years and some died there of natural causes. For example, if you go to the churchyard opposite where the

camp was, you will see the graves of 7 Turkish men, Ottoman Muslims all buried next to each other, separate from the Christian graves. One of the graves is of Ramazan Mehet who died on 17<sup>th</sup> November 1916.

However way you dress it up, this was an early form of concentration camp.

ii) Russian Gulags

The *Gulag* was an agency in charge of a network of forced labour camps set up by Lenin and expanded by Stalin in the Soviet Union during the 1920's and 1930's.

Over 1 million Russian citizens died of hard work, cold and starvation in detention camps mainly in Siberia. Many were political prisoners detained without trial, deemed enemies of the Communist State.

iii) Spanish Civil War

From 1936 to 1939 a civil war was fought in Spain between Nationalists and Republicans during which many atrocities, organised purges and executions of civilians occurred.

One of Pablo Picasso's most famous Cubist paintings is called *Guernica* and was inspired by the bombing of a Basque village called Guernica when hundreds of women and children were killed on a market day on 26<sup>th</sup> April 1937.

iv) Nazi Germany

During the 1930's the National Socialists led by Adolf Hitler rose to power in Germany. Jewish people living in Germany were despicably discriminated against in many ways such as having to wear a yellow star of David on their clothing, having their businesses vandalised (such as on the infamous *Night of Crystal* on 9<sup>th</sup> November 1938 when thousands

of shop windows were smashed) and being forced to live in designated areas called ghettos.

Other sections of German society were also targeted including communists, homosexuals and ethnic minorities.

After the outbreak of the Second World War in 1939, hundreds of thousands of such citizens were shot on the edge of mass graves or taken to concentration camps.

The Nazis established a network of concentration camps across Germany and in the occupied territories where millions of citizens were executed, tortured or starved to death.

Such brutality reached its climax at the *Auschwitz* Concentration Camp in Poland. Citizens were transported there in train carriages which were little more than cattle trucks, locked inside for journeys of up to 2 days.

Upon arrival at Auschwitz, the people were separated into two groups. Most of the women, children and elderly were directed straight away to so called shower blocks where they were told to strip naked before entering the facility en masse. In fact those buildings were gas chambers, cruelly disguised as shower blocks. Once inside Zyklon B pellets were dropped through a hole in the roof and the noxious gas emitted killed all those below within a few minutes. Bodies were then taken out and burnt in a crematorium.

Meanwhile, the remaining men and women were put to work in the camp to service the Nazi war effort. Many were tortured and treated in the most inhuman and degrading way possible.

Some were even subjected to horrifying medical experiments such as the work of Dr Josef Mengele on twin children.

A staggering 1.1 million people are believed to have died in the Auschwitz Concentration Camp. Most of these were Jewish people but there also political prisoners, foreigners and disabled persons.

Amazingly, some people survived the experience and a few are still alive today, with the Auschwitz tattoo still visible on their arms.

### **Visual Clip 9**

In total over 6 million Jewish civilians across German occupied Europe were murdered during the Second World War.

These human beings were exterminated simply because of who they were. All were deemed undesirable and unfit to be part of German society. The Jews were even labelled spreaders of disease.

In effect their only so-called crime was to be a minority.

Reference to Auschwitz is made with the greatest respect and only to help explain how the European Convention on Human Rights came into being and not in any way to make comparisons to the present day.

So, it was in recognition and reaction to such wickedness and utter barbarity that immediately after World War Two, governments around the world came together to establish the United Nations with the aim of preventing future wars and shameful infringements of civil liberties.

The European Convention on Human Rights followed shortly after in 1950.

And its clear aim was that never again should states be allowed to abuse and mistreat their own citizens. So that is how and why the Convention exists. An international treaty, but written in the innocent blood and tears of millions of Jews, Romani Gypsies, Slavs and infants.

## **E. Why were lockdown restrictions introduced?**

Returning now to present times.

Before looking at the lockdown restrictions which were introduced by governments last year and this year, let us consider why such restrictions were considered necessary.

After briefly resisting the idea of a lockdown and preferring the concept of allowing herd immunity to develop, the UK government quickly changed tack and accepted the advice of the esteemed and principled Professor Neil Ferguson and his colleagues that it was necessary to limit the spread of the virus by significantly restricting movement and gatherings.

## **F. The lockdown restrictions**

A State of Emergency was proclaimed on the Isle of Man by the Lieutenant Governor on 16<sup>th</sup> March 2020 and very soon after a number of Regulations were introduced under the Emergency Powers Act 1936.

### **Visual Clip 10**

For example, the now notorious Prohibition on Movement Regulations and the Prohibition on Gatherings Regulations combined to prevent residents from leaving home except for only very, very limited reasons.

The Isle of Man and the UK had essentially identical regulations save that in the UK breach of Regulations was only punishable by a Fixed Penalty Notice (on the spot fine of approximately £100.00) whereas in the Isle of Man breach was punishable by a fine of up to £10,000.00 or 3 month's jail.

In the Isle of Man 215 people were arrested and 71 persons received custodial sentences for doing ordinary everyday activities such as staying overnight at a girlfriend's house. The typical jail term being 28 days, which some of our off-Island viewers may find alarming.

These draconian Regulations undoubtedly represented the most severe restrictions on personal freedom in the modern history of the United Kingdom and Isle of Man.

A number of European Convention on Human Rights Articles were obviously engaged including Article 8, given that the lockdown restrictions in effect meant that residents could not visit family, could not attend weddings, education was severely disrupted, many businesses closed and sporting and recreational activities curtailed.

These restrictions caused untold misery, with many elderly grandparents left to die alone, cruelly denied family and friends to be with them to hold their hand in their final moments.

I would go as far as saying that our common humanity has been brutalised.

In addition, Article 11, the right to freedom of peaceful assembly, was engaged because the restrictions in effect outlawed protests. Picketing or protests or marching were all illegal.

Also, Article 13 of the UNCHR was engaged namely, "Everyone has the right to leave any country, including his own, and to return to his country". There was a period of about 3 weeks during April 2020 when the Isle of Man appeared to be the only country in the world to in effect ban its own residents and nationals from returning home. That was the period before the Comis Hotel became a quarantine centre, you may recall.

## **G. Other Considerations**

Before considering the issue of whether these various lockdown restrictions were necessary and proportionate. I would briefly like to refer to the role of parliament and enforcement policy.

After the State of Emergency was declared, the Manx Parliament, *Tynwald*, ceased to meet in person and for several months the Island was effectively

ran by a small number of ministers and senior civil servants. Far reaching Regulations were passed with parliament seemingly paralysed by fear, reduced to no more than a rubber stamp.

A similar situation has recently arisen in the Australian State of New South Wales where the Premier Mr Andrews is currently seeking to introduce a Public Health Bill which would, according to 60 QC's who signed an Open letter opposing the Bill, leave the government ruling the State of Victoria by decree. The real concern being that proper parliamentary oversight and the usual checks and balances on executive power would not be applied to government decisions.

Equally, in relation to Policing in the UK and the Isle of Man there were many examples of questionable proportionality. For example, in Derbyshire the Police used a flying drone to track a couple walking in the hills.

### **Visual Clip 11**

In the Island, a client of mine was arrested and interviewed after being reported by a neighbour for having gone out on a walk and not returning for 4 hours. The reported grounds for arrest was on the basis that the Police had advised local residents that exercise should be for no more than 1 hour.

There was also an example of a 13 year old girl who I represented who was arrested and interviewed after being stopped by the Police and admitting that she was on her second walk that day. In fact, the Regulations stated that one form of exercise per day was permissible but did not state how long that exercise could be for or whether the same form of exercise such as walking could be taken on a number of occasions within the same day. Both those clients were released without charge, you will be glad to hear.

Clearly, it was not acceptable for the Police to seek to enforce by criminal sanction what was mere guidance and their own interpretation rather than what was actual law.

## H. An Alternative Approach

All of these State imposed restrictions were based on a premise, namely that the official government scientific advice on the necessity of lockdowns was correct and there was no viable alternative.

In truth there was a broad spectrum of scientific views on the nature and seriousness of Covid-19 and how it should be dealt with. Because, for all the professors on the SAGE team with their doomsday scenarios, there were arguably an equal number of scientists who disagreed and recommended an entirely different approach.

For example, there is Doctors for Covid Ethics and there is also the Statement known as the Great Barrington Declaration authored by Professors Gupta, Bhattacharya and Kulldorff. It derives its name from the town of Great Barrington, Massachusetts, United States where the Declaration was signed on 4<sup>th</sup> October 2020.

### Visual Clip 12

The Declaration advocates a very different strategy than the severe lockdowns implemented by many governments. This alternative and more proportionate approach would be to shield the elderly and medically vulnerable whilst allowing all other persons to resume their normal lives with no closure of schools, work places, restaurants etc. The Declaration specifically refers to the disastrous collateral damage caused by lockdown policies. The Declaration has subsequently been signed by an impressive 15,091 public health scientists and 44,541 medical practitioners' around the world, yet has gained little traction in the mainstream media.

### Consequences of Lockdown

If we were to create a balance sheet of the good and bad effects of lockdown, what would it include and what would be the bottom line?

If say in the left hand column we were to put the good that has been done, that would include supposedly all the deaths that have been avoided and hospitalisations. But obviously this is pure speculation with different scientific mathematical modelling producing wildly different results.

In the right hand column, we would put all the bad things that have resulted from lockdown. Here are a few examples:-

- i) Cancer – The European Cancer Organisation, using the “*Time to Act*” data navigation tool have estimated that over 100 million cancer-screening appointments were not performed across 17 European Countries since March 2020.
- ii) Evictions – according to the Joseph Rowntree Foundation, about 950,000 households are now in rent arrears.
- iii) Public Finances – the UK Government has so far spent around £380 billion on Covid measures including £70 billion on furlough payments. In the Isle of Man the cost to the Treasury was estimated up to April 2021 as being in the range £200 - £250 million.
- iv) Mental Health – adult and child mental health services across the UK are being overwhelmed with a flood of new cases. This is the new pandemic, a global outbreak of anxiety and depression. Just to give one very small indicator, the number of suicides in the Isle of Man in 2019 was 6 but in 2020 this had tragically increased to 22.

### **Visual Clip 13**

Pandemic of Fear - At the start of the pandemic a wave of terror spread through the community. People were afraid of an invisible killer, fearful of being reported to the Police for breach of regulations and apprehensive for the future, as if all of life’s cards such as career, holidays and relationships had suddenly been flung into the air and not knowing where the winds of uncertainty would take them.

These fears persist in the minds of many today, creating legions of walking wounded, emotionally scarred for life by a completely unfounded anxiety.

This fear presents a potentially bigger threat to the nation's physical and emotional wellbeing than Covid itself.

- v) Foreign Aid – because of the economic damage caused by lockdown restrictions, the UK Foreign Aid budget has been cut from 0.7 GDI to 0.5 GDI for the next 2 years. This represents a material cut of around £4 billion per year which in turn means that food programmes, sanitation and vital humanitarian work across the globe will be hindered, impacting on the very poorest people in Yemen, Syria and elsewhere.

For example, financial support has been cancelled for the Strategic Partnership Arrangement with Bangladesh, which is predicted to result in 360,000 girls no longer being educated.

These are just a few of the truly catastrophic consequences of lockdown. Perhaps someday someone will sit down and prepare that detailed balance sheet and we should not at all be surprised if the detrimental consequences of lockdown outweigh the good and that the bottom line will reveal the indirect damage, cost and harm far outweighed the benefits.

In other words that lockdown was a massive self-inflicted wound.

### Sweden

In case you are thinking that this is a little fanciful, consider one country in the world which did not impose harsh lockdown but instead introduced light touch restrictions along the lines advocated in the Great Barrington Declaration.

That country is Sweden.

For the whole of last year, primary and secondary schools remained open as did all pubs, cafes, restaurants and shops. There was government advice and recommendations but no criminal penalties for non-compliance. The focus was on personal responsibility. And what was the outcome?

In Sweden the death rate with Covid is *1.2%*, in the UK, despite 3 lockdowns and many months of closures, the death rate is higher at *1.51%*.

## **I. Necessary and Proportionate**

Having considered alternative scientific opinion on Covid and the example of Sweden and briefly looked at calamitous consequences of lockdown, there is a reasoned argument that harsh restrictions were unnecessary and disproportionate.

If that is right, then human rights under Article 8 and Article 11 were potentially violated and civil wrongs did occur.

There is some force to this argument if we consider the legal and political reaction.

### i) Spain.

The Spanish Constitutional Court dramatically ruled in July this year that the country's first lockdown measures during March – June 2020 were unconstitutional and illegal. The strict restrictions had been introduced under a State of Emergency but the Constitutional Court held that the rules were equivalent to a suspension of fundamental rights. Remarkably, the Spanish Government is now in the process of repaying €115 million in fines, to reimburse citizens who were fined for such things as going out for a walk.

- ii) House of Commons – in April this year the House of Commons Justice Committee on Human Rights surprisingly recommended that all lockdown penalties should be reviewed.

As at 20<sup>th</sup> June this year, 117,213 Fixed Penalty Notices had been issued for breach of lockdown restrictions but the Parliamentary Committee described the system as “*Muddled, discriminatory and unfair*”.

The Committee chairwoman Ms Harriet Harman MP stated that there was a lack of legal clarity about the rules and there were significant concerns about the validity of fines, the inadequacy of the appeal process, the size of the penalties and the criminalisation of those who could not afford to pay.

- iii) Public Protests

Consider also the court of public opinion. As I mentioned, the Prohibition on Movement Regulations effectively banned protests. Protesting and demonstrating was not a legal reason to leave home during lockdown.

Under Article 11 ECHR there is a right to peaceful assembly.

- iv) Sarah Everard - Following the murder of Miss Sarah Everard in London in March 2021, crowds gathered on Clapham Common where she had disappeared. Police subsequently banned a planned vigil on the basis that it would breach Covid rules. There were controversial scenes of male Police Officers manhandling women when the vigil went ahead despite a failed High Court action against the ban. Even the Duchess of Cambridge attended the scene to lay flowers.
- v) Black Lives Matter – similarly, on 26<sup>th</sup> May last year, *Mr George Floyd* was murdered during a Police arrest in Minneapolis, United States. Protests against Police brutality erupted around the world and boiled over in Bristol, UK where a statue of slave trader Edward Colston was torn down and thrown into the harbour.

## Visual Clip 14

So clearly, what happens when protests are banned is that eventually public resentment will boil over and sweep the officialdom away. Quite frankly there were a lot more important things in life than observing social distancing.

So when you consider the Spanish Constitutional Court decision and the recommendations of the House of Commons Human Rights Committee, there is a valid argument that all historic convictions for breach of Covid Regulations ought to be expunged. And there is precedent for this.

The Sexual Offences and Obscene Publications Bill 2019 in the Isle of Man, will make it possible from next January for men convicted of homosexual offences on the Island to apply to have their convictions cleared from criminal records. Homosexuality was illegal on the Isle of Man until 1992.

And we know that *Alan Turing* the computer scientist who helped Britain during the Second World War, was subsequently prosecuted in 1952 for homosexual acts and chemically castrated, but was later posthumously awarded a pardon under the Royal Prerogative by the Queen.

So equally, perhaps there may be the political will to review Covid convictions on the Isle of Man.

As I conclude this part of my talk, I make the point that the matters we have considered are not merely of academic or historic interest, they are relevant right now because lockdowns are being rapidly reintroduced across the world as we speak.

Swinging restrictions have been re-introduced in Austria, Christmas markets cancelled in Bavaria, nightclubs closed in Ireland and in the Isle of Man facemasks are now mandatory on public transport. And as we know, England moved to Plan B last week.

If the Isle of Man Government is considering introducing similar restrictions, the sincere hope is that important lessons will have been learnt and will be taken on board.

## **J. Right to Truth**

Before closing this first part of my talk and turning to vaccination mandates, I would like to mention one further right which it could be argued has been engaged during the pandemic.

It is a little known human right and it is called the Right to Truth.

This is a somewhat elusive concept but in simple terms it relates to the right for the families of victims of grave violations of human rights to have access to the truth of what happened. For example, the United Nations Human Rights Commission determined in 2016 that there is an “*Inalienable and autonomous right to truth*”. It was referred to by the European Court of Human Rights in the 2001 case of **Cyprus v Turkey** where a number of Greek Cypriots disappeared whilst in the custody of Turkish troops.

The UN even has a Right to Truth Day every 24<sup>th</sup> March.

Arguably, there is potential for the courts to greatly expand the scope of that right.

In this context, there have been many accusations of anti-lockdown and anti-vax protestors using misinformation and disinformation.

Let me balance that by referring to clear examples of where State or mainstream media messaging has been unacceptable.

### Misinformation

This has been defined as inaccurate or misleading information.

For instance, consider the daily death figures published by the UK/Isle of Man Governments. For many months they were presented as "deaths from Covid". That definition was subtly amended many months later to "deaths with Covid", because of the fact that many persons who died with Covid in fact had a number of pre-existing illnesses or injuries. Even to the extent that if someone died after getting ran over by a bus, having testing positive for Covid in the four weeks beforehand, that was recorded as a Covid death. And still is. Because the definition of Covid deaths in the UK is death within 28 days of a positive Covid test and in the Isle of Man it is where Covid is mentioned anywhere on a death certificate.

Even more alarmingly, a Freedom of Information response to a *Daily Telegraph* question revealed that 11,688 people who were recorded as having died from Covid, actually caught the virus whilst in hospital for other reasons.

There is no doubt in my mind that the Covid death and hospitalisation figures are misleading and ought to be taken with an enormous pinch of salt.

### Disinformation

This is false information that is spread deliberately to deceive.

US President Biden recently coined the catchphrase "*Pandemic of the unvaccinated*".

This is a claim in effect that hospitalisations and deaths are now overwhelmingly in the unvaccinated.

I have heard this term used in the Island but aside from being socially divisive it is simply untrue.

### **Visual Clip 15**

If we consider the Isle of Man hospitalisation statistics, they show completely the opposite namely  $\frac{3}{4}$  of patients hospitalised with Covid are double vaccinated.

Some would therefore argue that the phrase “pandemic of the unvaccinated” is a vile lie being deliberately used to deceive, demonise and coerce unvaccinated people to get the jab.

### Propaganda

This is false or exaggerated statements spread to help a cause or action.

In the UK we have seen the wholesale use of TV programmes, newspaper adverts, celebrities, Instagram influencers sensationalising the risk from Covid and pushing the pro vaccination agenda. The England football manager Gareth Southgate featured in an NHS advert shortly after the Euro football final this June urging everyone to get vaccinated, only to subsequently backtrack and worry about whether he was, “on the right side of history”.

This hysteria has recently reached farcical proportions with Martin Kemp, the former EastEnders member featuring in a new NHS vaccine promotional video where he plays the part of Father Christmas getting his booster jab and urging everyone else to get vaccinated.

### **Visual Clip 15A**

So now its official, Santa will not come down your chimney if you are not vaccinated.

### Censorship

This is the suppression of ideas and communication.

The mainstream media and social media companies have been particularly active in this area.

Silicon Valley in California is where the big social media giants such as *Google*, *Twitter* and *Instagram* are based.

I was surprised to discover that *Facebook* alone employs over 15,000 so called moderators. These are salaried staff who are paid to view internet content and flag up or remove content they deem inappropriate or harmful.

The social media firms have moved from being mere platforms to publishers and have become arbiters of what is acceptable.

So there is a modern day army of censors policing freedom of expression on the internet.

To give one example, in September this year *YouTube* introduced a blanket policy of blocking all anti-vaccine content. David Davis MP was caught up in this policy after making a speech at the Conservative Conference in October in which he argued against Covid passports. YouTube removed the entire speech as contrary to its policy on medical information, although it subsequently reviewed its decision and reinstated the speech following intervention by the libertarian campaign group Big Brother Watch.

But it was a chilling example of how social media firms are seeking to control free speech and has disturbing echoes of historic book burning, for example in Nazi Germany where books such as by Tolstoy, Oscar Wilde and even the disabled author Hellen Keller were flung on to the bonfire.

### **Visual Clip 16**

Shudinformation

Now here is a new concept for you to consider.

### **Visual Clip 17**

A brand new word to add to your vocabulary, which I have created for this presentation!

Shudinformation is "information which a person already has and which ought to be revealed but is deliberately not disclosed or published".

Let me give you a couple of examples.

The patient information letter sent to persons invited to receive a Covid vaccination did not include any explicit mention of the ingredients in the Astra Zeneca vaccine, particularly the use of a chimpanzee cold virus. Some regard this as a shocking lack of candour.

Also the *Yellow Card* statistics for adverse reactions and deaths from Covid vaccination are hidden away in the depths of the UK Government website and are never openly referred to by mainstream media such as Sky or the Daily Mail. Astonishing figures but never reported.

### **Visual Clip 20**

In other words, shudinformation is where transparency is ignored and things are not mentioned which undermine the preferred narrative.

This is slightly different to the obligation of public authorities to provide information under the Freedom of Information Act. That is an obligation for them to take reasonable steps to go out and find the new formation requested, whereas shudinformation relates to information the person, body or government already has but deliberately chooses not to disclose even though it is in the public interest.

## **K. Article 9 ECHR**

When you consider the combined effect of state misinformation, disinformation, censorship and propaganda there is a valid argument that Article 9 ECHR has been engaged.

In other words, that the State is playing with your mind.

Freedom of thought has been classed by the Court as an absolute right. You may recall that this means it can never be interfered with. There is a distinction between thought and manifesting that thought, but the actual thoughts are deemed absolute rights.

But I do fear that we are getting perilously close to violating that right. Governments constantly berate citizens to “do the right thing”, “comply with advice”, “don’t be selfish” and “act responsibly”.

We are hammered over the head every day.

Dissenters from this government narrative are made to feel guilty for even daring to contemplate dissenting views.

You may recall the character Winston Smith in George Orwell’s novel *1984*.

This is a fictional story of what life would be like in a totalitarian Superstate.

*Thought Police* persecute individuality and the central character Winston Smith is eventually taken to Room 101 and relentlessly brainwashed until he finally accepts that 2 + 2 = 5.

### **Visual Clip 18**

Some are of the opinion that there are echoes of that in the Government’s present day Covid messaging and attempt at mind control.

Do remember the words of Albert Einstein, “*Unthinking respect for authority is the greatest enemy of truth*”.

So there is no need to feel guilty about thinking your own thoughts. In fact, whereas the UK Health Secretary Sajid Javid has said that he is on a national mission, “*For everyone to get a booster*”, I am also on a national mission namely to get everyone to ask why.

And maybe there is a coded message in the turnout figure for the last General Election on the Island. At the September 2021 General Election the turnout was only 50.28%. In other words half of the electorate chose not to vote. Perhaps that indicates a disastrous collapse in public trust and confidence in the political class? A big thumbs down for Big Brother State.

That concludes the first part of this talk and we will resume again after the break by entering the scary world of compulsory vaccination.

## **PART TWO – VACCINE MANDATES**

Welcome back and may I say a special thank you to a wonderful lady called Denise who is the inspiration for this part of my presentation.

The second area of this evening's talk concerns the rapidly evolving situation right now in respect of compulsory vaccination.

This means different things in different countries with terms such as Passe Sanitaire, Vaccination Certificate and Covid Passport all being used.

### **L. International Examples**

- i) Italy – all public and private sector employees currently must have a Green Pass to physically enter a work place. This means proof of vaccine or proof of negative Covid test or proof of recovery. A Super Green Pass was introduced on 6<sup>th</sup> December 2021 which even removes the testing option for certain venues.
- ii) Scotland – from 1<sup>st</sup> October to 6<sup>th</sup> December this year only vaccinated persons were able to enter nightclubs. And the unvaccinated were also barred from attending football and rugby matches with over 10,000 spectators.

- iii) England – has just moved to Plan B, which includes proof of vaccination or negative test being required to enter nightclubs and large events as from tomorrow.
- iv) Canada – since 30<sup>th</sup> October this year only fully vaccinated persons can board a plane or intercity train in Canada.
- v) Austria – Chancellor *Alexander Schallenberg* announced in November that as from 1<sup>st</sup> February 2022 Covid vaccination will become compulsory in Austria. Non-compliance by anyone aged over 14 is proposed to be punishable by a fine of up to €3,600 every 3 months.
- vi) Germany – under the so called 2G policy, only vaccinated persons and persons with proof of recovery from Covid can currently enter non-essential shops, restaurants and cinemas.
- vii) Greece – the Prime Minister *Mr Mitsotakis* churlishly announced that after 16<sup>th</sup> January 2022, all citizens over the age of 60 will be fined €100 per month if they are not vaccinated.

So it is a complex and fast moving picture but the clear direction of travel is towards more restrictions on the unvaccinated.

Last year there were lockdown restrictions when there were no vaccines and this year there are lockdown restrictions even with vaccines.

#### Incentives – The Carrot Approach

Prior to the introduction of vaccine mandates, many governments desperately tried to encourage uptake by offering a range of incentives. In Oregon the state ran a draw just for vaccinated students with the chance to win 5 college scholarships worth \$100,000.00 each. In Indiana, anyone who was vaccinated at designated sites received a box of Girl Scout cookies and in Washington State under its laughable “*Joints for Jabs*” promotion, anyone over 21 could receive a free pre-rolled cannabis joint if they were vaccinated.

**M. Why are some people not being vaccinated?**

Despite such increasingly bizarre incentives, around 10% of the eligible population is still unvaccinated.

They are usually just referred to as "*The unvaccinated*". They are very rarely given a voice but why are they deciding not to be vaccinated and who are they?

Well, you are looking at one now, me.

There are two categories of unvaccinated persons.

Firstly, there are those who cannot be vaccinated. This is a group who, even if they wanted to, have particular medical conditions such as allergies or pregnancy which may preclude vaccination in individual circumstances.

The second, more elusive, group comprises of those who have consciously decided not to be vaccinated.

I think it is important to articulate some of those reasons, to finally give some public airtime and vocalise the other side of the debate about Covid vaccines.

*i) Safety*

The Moderna and Pfizer vaccines use relatively new mRNA technology. In addition, all Covid vaccines initially received only temporary or emergency use authorisation valid for just 12 months. The vaccines did not go through all of the usual testing procedures and the testing pool was relatively small.

I have an 82 year old friend who had his flu jab last November, 2 Astra Zeneca Covid jabs this spring, another flu jab in October and his Covid booster a few weeks ago. This means he has had 5 coronavirus

injections within 12 months. There is no real world data on the cumulative effect on the body of these different injections within such a short space of time because this has never been done before.

Those of a certain age recall the horrifying Thalidomide medical scandal. Thalidomide was a medicine for morning sickness developed by the German pharmaceutical company Grunenthal and was licenced by the UK Government in 1958, despite no tests having been conducted on pregnant women.

Tragically, approximately 2,000 babies were subsequently born in the UK with severe defects and deformities. The drug was withdrawn 3 years later in 1961 and subsequent civil legal action led to a multi-million pound settlement for UK victims but several company officials also stood criminal trial in Germany for negligent homicide.

Then there are the adverse reactions to Covid vaccination.

On the UK Government's Covid website there are statistics for the number of adverse reactions to each vaccine, which have been reported using the so called Yellow Card scheme.

The combined figures for the UK as at 3<sup>rd</sup> December 2021 were as follows:-

### **Visual Clip 20**

ADRs – 395,049. And behind that cold statistic are individual people made sick with strokes, heart attacks and many other conditions.

Deaths – 1,814.

Quite remarkable figures.

So safety is the first reason.

## ii) Cultural Sensitivities

The uptake of Covid vaccines amongst ethnic minorities is much lower than in the white population. Why is that?

Part of the reason stems from a colonial history of medical abuse, particularly the use of African countries for clinical trials by pharmaceutical companies.

To give just one example, the Pfizer antibiotic drug Trovan was used in a clinical trial in Kano, Nigeria in the 1990's. Children died and were maimed in the trial which led to a lawsuit from the Nigerian Government against Pfizer over the specific issue of informed consent.

Interestingly, the plot of John Le Carré's novel, *The Constant Gardener*, is based on that true event and its themes were an international conspiracy of corrupt bureaucracy and pharmaceutical money – which might sound rather familiar today.

Another example was in November this year, Reuters News Agency reported that Peruvian government health workers had made an arduous 3 day boat expedition into the depths of the Amazon jungle to reach the *Urarina* indigenous community.

The reaction of the community leader was "*We don't know anything about Covid-19, we haven't heard of it*".

Some would praise the medics for their crusading vaccine zeal whereas others despair that the lessons of previous disastrous missionary expeditions have not been learnt. Should we not respect this tribe's culture and just let them be?

iii) Ingredients

**Visual Clip 21**

The AstraZeneca vaccine has its active ingredient a genetically modified chimpanzee cold virus. For some people this raises serious philosophical

issues in relation to the use of a virus from another species and the use of genetically modified organisms.

iv) Animals

In addition to the use of a chimpanzee virus in the AstraZeneca vaccine, the Pfizer vaccine was tested on Macaque monkeys. These points will be of acute concern to Vegans and Vegetarians. And it is really stretching credulity for the government to state that the AstraZeneca

vaccine does not contain animal products, when its active or main ingredient is a genetically modified chimpanzee virus.

v) Human Foetus

The AstraZeneca vaccine uses a host cell line called HEK-293.

HEK stands for Human Embryonic Kidney.

This is because such HEK-293 cells are clones taken from the kidney of a legally aborted human female foetus.

The AstraZeneca vaccine is actually produced using cloned cells from a human foetus although the manufacturing process attempts to remove such cloned cells from the final vaccine by filtration.

In addition, the Pfizer and Moderna vaccines use the HEK-293 cell line to test their Covid vaccines. In other words all three vaccines use cloned human cells in one way or another.

Such use of an aborted foetus and the use of clone technology raises grave moral issues for some people including faith groups.

vi) Prevention

There are those who sincerely believe in the wisdom of long-term healthy lifestyles such as drinking sufficient water, taking outdoor daily exercise and moderate amounts of sunshine, eating more fruit and vegetables, wholegrains and nuts, oily fish and fermented foods whilst at the same time reducing the consumption of alcohol, refined sugar, red meat, processed food and stopping smoking.

I am often reminded at home to have my Kimshi.

*"Let food be your medicine and medicine be your food"* said Hippocrates, the Father of Medicine.

vii) Treatment

Linked to prevention, there are those who believe that Covid vaccination is not necessary because the illness can be treated adequately. For example, the Early Treatment Protocol of Professor Peter McCullough, includes a multi drug anti-viral therapy incorporating vitamin C, vitamin D, Zinc and Quercetin (a plant extract).

It is interesting that Pfizer now has a drug authorised to treat Covid, which seems a little curious given that its vaccine was supposed to be extremely effective at preventing serious illness in the first place.

viii) Efficiency

A Welsh lady was recently interviewed in the streets of Cardiff by ITV and when asked if she would support further lockdown measures she replied *"I've got friends in hospital who have had both doses and I have had the jabs. I don't understand it anymore. I thought we were supposed to be immune"*.

The conventional notion of a vaccine, for example for smallpox, is that you have it once and are then protected or completely resistant against smallpox for the rest of your life. Given that Covid vaccines only give limited protection and only for a few months, perhaps they don't meet

the usual definition of a vaccine and should instead be called a medical intervention. The use of the term "vaccine" is therefore highly questionable.

ix) Recovery

There are those who have had Covid and are satisfied they now have sufficient natural immunity not to need vaccination.

Similarly, there are those who believe that natural immunity from previous colds and flu episodes will provide sufficient resilience to deal with Covid-19.

This notion was initially rubbished by some commentators but very interesting research on healthcare staff published last month by University College London found that was indeed the case.

In simple terms, some people retain antibodies and T-cells from previous colds which are able to tackle different coronaviruses such as Covid-19 in the future.

x) Overreaction

Finally, there are those that believe that the threat posed by Covid to the entire population has been grossly exaggerated. That whilst it may pose a risk of serious harm to some elderly and vulnerable persons, for most persons the symptoms will be relatively mild, no worse than the flu. This group hasn't been vaccinated for flu before and see no reason to be vaccinated against Covid. Simply put, they are fed up with Alpha, Delta and Omicron and the threat of perpetual boosters and believe we should just get on with our lives and learn to live with Covid.

There will be people who believe in one, several or all of those reasons.

Whether any of those reasons reach the legal threshold of belief under the European Convention on Human Rights or the Equality Act will be a matter for the Courts to decide.

But in another sense, that doesn't matter. Because for the person who sincerely holds any or all of those thoughts, they are true and meaningful and sufficient reasons for them.

And ultimately, is that not enough? That it is a person's sovereign choice as what happens with their own body.

The phrase "My body my choice" was the mantra that won the pro-abortion debate and is the phrase currently being coined to advance the assisted dying agenda. Why is that not equally valid in relation to vaccination?

## **N. Why have vaccine mandates been introduced? – The Stick Approach**

There are appears to be three main reasons.

i) To increase vaccination uptake.

In Scotland, the First Minister Miss Sturgeon brazenly admitted that, "the central primary objective" of her vaccine mandate was to drive up vaccination rates.

### **Visual Clip 22**

Similarly, in Austria, Chancellor Schallenberg reprehensibly stated, "*We have to raise the vaccination rate. We will therefore have to tighten the leash on the unvaccinated*".

And the Greek Prime Minister Mr Mitsotakis, when referring to the fines that would be imposed on the unvaccinated disingenuously

stated *"This is not a punishment but a bonus for health, an act of justice"*.

It certainly appears that many leaders are utterly convinced of their own infallibility.

ii) To keep others safe

We know that 90% of the eligible population has already been vaccinated and this according to the government should keep those vaccinated individuals safe from serious harm. That is the important context.

The argument is that the unvaccinated are spreaders of the virus and could re-infect the vaccinated.

The truth is that the vaccinated persons can also easily spread the virus.

The BBC covered a very important story this October on research carried out by The Lancet Infectious Diseases journal. That research showed that double vaccinated persons in UK households could spread the Delta variant as readily as the unvaccinated.

**Visual Clip 23**

The report stated, *"We found no evidence of lower secondary attack rate from fully vaccinated Delta Index cases than for unvaccinated ones"*.

The way this research was reported was with the aim of encouraging unvaccinated persons to go out and get the jab because they were not protected living with vaccinated household members.

However, in the process of saying that, they let the cat out of the bag that fully vaccinated persons are effective spreaders.

So you could, in the absence of a testing requirement, have a hospital full of vaccinated doctors and nurses or a nightclub full of vaccinated customers, but all would be entirely capable of spreading the virus amongst themselves and to others on the premises. A recent striking example of this was the cruise liner *Norwegian Breakaway*, which disembarked in New Orleans on 5<sup>th</sup> December 2021 amid an on-board outbreak of Covid, despite all crew and passengers being fully vaccinated.

Therefore there is no logic or scientific basis for excluding the unvaccinated as posing a significantly higher risk to others.

And if it is the case that unvaccinated doctors and nurses pose such a threat to patients right now, why is the UK Government not bringing in its compulsory vaccination policy for NHS staff immediately instead of waiting another 4 months until April? Is this an indication of the truth that they do not in fact pose any higher risk to patients?

iii) To protect the unvaccinated.

Now that is getting plain silly. Will the government now be considering banning smoking or drinking or the *TT Motorcycle Races* so as to protect people from themselves, reduce pressure on the NHS and eliminate all risk in life? Maybe I will start a petition banning avocados. Every year 200 people are reportedly treated at Chelsea Hospital in London for hand injuries caused whilst cutting open avocados with a knife. So let's ban avocados and that risk will be eliminated!

## **O. Which rights are engaged?**

We need to distinguish between a law passed by government making Covid vaccination compulsory for all or to access public services, and the separate situation where a private business voluntarily introduces a vaccine requirement.

In the former case, a legal requirement would be susceptible to challenge in Court. A wholesale review of constitutional and international human rights issues would have to be undertaken as in **Vavrinka & others v Czech Republic**.

i) Vavricka v Czech Republic

A new and very important European Court of Human Rights case dealing with child vaccination and human rights is the case this year of **Vavricka & Others v Czech Republic**.

This was the first ever ruling by the European Court of Human Rights on the question of compulsory vaccination.

The Grand Chamber of the Court gave its judgment on 8<sup>th</sup> April 2021.

Mr Vavricka is a Czech National who refused to vaccinate his two children for a range of 9 childhood illnesses such as Polio and Hepatitis B.

The Czech Republic has a law requiring all children to be vaccinated against these diseases in order to attend nursery school.

Mr Vavricka was fined the equivalent of €110.00 (approximately £100.00) for breaking that law and his children were prohibited from attending nursery school.

Mr Vavricka principally relied upon his Article 8 rights in relation to bodily autonomy and his rights to make decisions concerning the health and best interests of his children.

Mr Vavricka also alleged that his Article 9 rights had been interfered with in that he believed that vaccination caused health damage and his conscience did not allow him to have his children vaccinated.

The Court also had to separately consider the Article 8 rights of the children e.g. their right to attend nursery for their own educational development.

The Court considered Article 6 Oviedo Convention and also the UN Convention on the Rights of the Child.

The Court found that Mr Vavricka's Article 8 rights had, in principle, been interfered with in that compulsory vaccination is an involuntary medical intervention.

However, the Court ruled that the vaccination requirement was lawful and that Mr Vavricka's Article 8 rights had not been unlawfully interfered with.

This is because Article 8 is a qualified right and can be interfered with in pursuit of a legitimate aim and if necessary.

The Court held that the mandatory vaccination law was imposed with the aim of protecting the health of children.

In addition, the consensus of medical experts was that vaccination for the diseases in question was necessary, safe and efficient and that the State was under a positive obligation to protect the population from serious disease and achieve herd immunity.

The Court held that a small fine and exclusion from nursery school (i.e. barred for only one or two years) was not disproportionate.

The measures were therefore lawful and proportionate and could be regarded as being necessary in a democratic society.

In addition, the Court held that Mr Vavricka's Article 9 rights had not been violated because he had not established that his critical opinion on vaccination was of sufficient strength, seriousness, cohesion and

importance to constitute a conviction or belief benefiting from the protection of Article 9.

Although this case relates to compulsory vaccination of children and the potential penalties that can lawfully be imposed for non-compliance, this is entirely separate from enforced vaccination. This Court ruling in no way endorses forced physical vaccination.

Although the Judgment deemed that the compulsory vaccination requirement in the Czech Republic for all children to be jabbed for a number of childhood diseases such as Polio in order to attend nursery school was lawful, the case may not necessarily set a precedent with regard to compulsory Covid-19 vaccination due to the following different circumstances:-

- i) Vavricka only concerned nursery school aged children. Non-vaccination was a bar to attending nursery school but not primary school or secondary school. In other words, unvaccinated children could still attend primary and secondary schools in the Czech Republic.

If the UK or Isle of Man Government introduced a Covid vaccination mandate for attendance at primary school or secondary school, that would clearly be a significantly different circumstance than in the Vavricka case, given that any exclusion could last for many years.

- ii) The scientific justification referred to in the Vavricka Judgment was on the basis that vaccination for Polio etc. was necessary to protect the child's physical health. In contrast, the UK Government's justification for Covid-19 vaccination being offered to schoolchildren in the UK is not to protect the child's physical health but to prevent the child from having to take time off school and thereby having their education disrupted. In other words for the child's indirect benefit not direct physical benefit.

- iii) The risk to children's health from Polio, Measles etc. is much greater than from Covid. Even if a child were to develop Covid, in most cases the symptoms would be only mild cold like symptoms as opposed to the potentially life threatening consequences of Polio.
- iv) The Vavricka Judgment also leaves the door open to a claimant establishing a proper and sufficient belief which would be protected under Article 9.
- v) The size of the fine in Vavricka was a modest one off payment of €110.00.

In contrast, Austria is proposing a huge fine of up to €3,600.00 every 3 months.

I mention this case, as a clear warning of what could potentially be coming your way.

There is hope but it makes it vital that you galvanise and campaign to prevent compulsory vaccination becoming law.

The starting point in UK law is that patients must give their consent to any medical treatment and therefore mandatory medical treatment including vaccinations is currently unlawful.

A general vaccine mandate affecting everyone in society will therefore require a change in primary legislation.

Additionally, under the *Nuremburg Code*, "the voluntary consent of the human subject is absolutely essential".

However, a vaccine requirement in order to do a particular job or enter particular premises is different from a universal vaccine requirement.

### Different Court Approaches

#### ii) Slovenia

Following an application by the Police Trade Union, the Constitutional Court stayed a government decree under which public employees would either have to be vaccinated or recovered from the virus to enter a workplace.

iii) USA

President Biden has passed a decree ordering, by 4<sup>th</sup> January 2022, all companies with 100 employees or more to require staff to be vaccinated or submit negative Covid tests.

This is currently being challenged by a number of Republican Attorney Generals and the US Court of Appeals for the 5<sup>th</sup> Circuit has halted the requirement on the grounds that it was, "*Fatally flawed and staggeringly overboard*" and "*Raised serious constitutional concerns*".

The matter will now be decided by the Supreme Court in the New Year.

iv) England

A case concerning the compulsory vaccination requirement for care workers in England was recently put before the Court in the case of **Peters v Secretary of State for Health**.

However, the legal challenge based on S.45E Public Health (Control of Disease) Act 1984 was dismissed on the grounds that an individual retains the choice whether to be vaccinated or not and so the new Regulations were not equivalent to compulsory medical treatment.

v) Scotland

The Court of Session in Scotland, when considering a claim by the Night Time Industries Association, ruled in favour of the Scottish vaccine mandate stating that it was, "*An attempt to address legitimate issues in a balanced way*".

Clearly, this is a rapidly evolving legal landscape with contradictory cases emerging every day.

Let us consider the second situation, namely where a private business unilaterally decides to introduce a vaccine mandate.

## **P. The Equality Act**

The UK Equality Act 2010 in effect combines the Race Relations Act, the Equal Pay Act and the Disability Discrimination Act with other considerations to create one single overarching anti-discrimination law. The IOM Equality Act 2017 largely mirrors this.

Why is this law important?

Because treating persons unfavourably for example because of their skin colour or sex or beliefs makes those individuals feel inferior, resentful and unhappy. Discrimination makes people feel bad about themselves.

The Equality Act represents the culmination of decades of campaigning and protests against racial discrimination, low pay for women and the exclusion of disabled persons from large sections of public life.

### **Visual Clip 7 (again)**

There are 9 protected characteristics under the Equality Act.

These are:-

- a) Disability.
- b) Gender reassignment.
- c) Marriage and civil partnership.
- d) Pregnancy and maternity.
- e) Race.
- f) Religion or belief.

- g) Sex.
- h) Sexual orientation.

So take some real life examples. What if hypothetically a shoe shop in Strand Street puts a sign up on the door stating, "*All customers must be vaccinated*" or café puts an advert in the Courier newspaper stating, "*Wanted Barista, must be Covid vaccinated*" or a Life Assurance Company introduces a new employment policy insisting that all existing employees must be vaccinated?

What rights do you have if you are an unvaccinated customer of the shoe shop or wish to apply for the café job or are an existing employee of the Life Assurance Company.

It is possible that you may have been unlawfully discriminated against.

Potentially on the grounds of race or disability but let us consider another one of the protected characteristics, that of religion and belief.

Religion refers to any religion and belief and can include any cogent philosophical belief genuinely held.

Even manmade climate change has recently been held to be an acceptable belief.

It will be interesting to see how various anti-vaccination beliefs are viewed by the Court in cases alleging discrimination, harassment and victimisation.

It is quite possible that a person with anti-vaccination beliefs based for example on Catholicism or veganism could successfully claim they have been unlawfully discriminated against either directly (in other words they were treated worse than another person because of their belief) or indirectly (in other words where a policy is applied to everyone but the anti-vaccine person is put at a particular disadvantage because of that belief).

## **Q. Data Protection Act**

I referred to this earlier on and now return to it in the context of vaccine mandates. This law gives important rights regarding confidentiality.

Clearly, we are now in a situation where in many parts of the world people have to show proof of vaccination or proof of a negative test to access shops and premises.

As we know, the position in Scotland for the last couple of months was that you could only enter a nightclub or big football event if, and only if, you were vaccinated. In other words, you had to be ready to show your NHS Covid pass on your mobile phone to a door steward.

In England as from tomorrow (15<sup>th</sup> December 2021) a person will need to show proof of vaccination or proof of a negative test in order to access nightclubs or large sporting events.

This obviously entails revealing your confidential personal medical data.

But why should you?

This event tonight was open to all, with no pre booking or registration because of concerns about this very issue.

Last year, prior to the introduction of Covid vaccinations, many pubs and restaurants were requesting, for contact tracing purposes, that customers provide their name and phone number as a condition of entry.

The NHS Covid pass is even more intrusive because you are now being asked to reveal your private medical history. Why is it not OK for a doorman to ask whether a woman is on the pill or if a man is HIV positive but is OK to ask about someone's vaccine status?

Clearly, there is an interplay here with Article 8 European Convention on Human Rights as that Article covers respect for correspondence which includes medical records.

There is also an interplay with the Equality Act which places restrictions on the questions an employer can legally ask employees or about the health of new applicants.

## **R. Morality**

In addition to those legal rights, we also need to consider ethical issues regarding Covid vaccine mandates.

### i) Coercion

You will recall the detestable remarks of Chancellor Schallenberg in Austria referring to "tightening the leash" on the unvaccinated. And this is from the leader of the country where Adolf Hitler was born.

The First Minister in Scotland, Ms Sturgeon, openly stated that the primary objective of the vaccine mandate was to increase vaccine uptake.

Let us call a spade a spade here. This is coercion.

This is bullying.

This is oppressive and it is extremely unsavoury.

Consider by way of an analogy the criminal offence of coercive control.

In England S.76 Serious Crime Act 2015 created a new offence of controlling and coercive behaviour in a family relationship.

Some would argue that this is exactly to what governments are doing with Covid mandates i.e. seeking to exert emotional and psychological pressure on unwilling vaccine participants. In a marriage this could be a crime.

### ii) Brotherhood

You may recall one of our first slides tonight that of the UN Universal Declaration of Human Rights and there is reference in that to human beings acting together in a spirit of brotherhood.

The Archbishop of Canterbury Justin Welby disgracefully stated in January this year at the time of receiving his jab, that Covid vaccination was, *"An answer to prayer and getting the vaccine is part of the commandment to love your neighbour"*. So by implication, if you choose not to be vaccinated you are disobeying God. My retort to that is, what is Christian or merciful about stigmatising, excluding and scapegoating the unvaccinated?

iii) Duty

Some people raise the issue with the unvaccinated about doing their duty and acting responsibly.

Well I tell you this, my primary duty is to the truth, my responsibility is to make my own decisions and take responsibility for my own health and what on earth is responsible about government and the media recklessly engendering terror throughout society?

And so I will take no lectures on duty and responsibility.

## **S. Global Protests**

What has the reaction around the world been to intimidation and recent restrictions?

### **Visual Clip 24**

Yes, there have been huge protests across the world against tyranny and my message to anyone who shares those sentiments is that you are not alone but we are all part of a wonderful international Fellowship of Freedom.

## **T. Conclusion**

When you consider the sweeping restrictions and vaccine mandates being introduced around the world, it is clear that these are not isolated events. The tide is flowing in one direction.

Something is happening in the minds and spirits of leaders and decision makers.

That something is called AUTHORITARIANISM.

Because at the very time civil liberties have never been more relevant, they also seem to be never more imperiled. Despite 70 years of quietly evolving human rights jurisprudence, it is as if the current crop of politicians do not know about citizens' rights or have forgotten about them or are prepared to overlook them.

At one end of the spectrum there are people who would happily let the Police adopt a policy of "*Do not pass go, do not collect £200, go straight to jail*". The recent letter writer to the Isle of Man Examiner newspaper who stated that the unvaccinated, "*Do not deserve respect*", would be at that end of the spectrum.

At the other end of the spectrum are those, both vaccinated and unvaccinated, men and women, black and white, young and old, left and right, who are all united in putting choice first. I am in that group and I nailed my colours to the mast very early on in the pandemic. And why did I do that?

Let me put it this way.

When I was a boy growing up in my little village of Kirk Michael, I spent a lot of time playing outside in the countryside; as a Cub on adventures in *Spooyt Vane* or swimming in the sea at *Balliera* Beach or picking blaaberries in the wilds of *Slieau Freoaghane*. Our primary school headmaster Mr Cashin encouraged us to learn the National Anthem off by heart from the age of 5.

The last line of the first verse is "As free as thy sweet mountain air".

So freedom is in my soul.

And as a young man at university my earnest quest was to seek the truth and that remains the case today.

The authorities can stop me from eating at restaurants, ban me from entering cinemas, prevent me from travelling, bar me from using buses, even lock me in Jurby Prison. But no one will stop me thinking my own thoughts, no one will stop me being true to myself and no one will ever extinguish my love of freedom.

### The Appeal

The time has come for you also to decide whose side you are on in this war against the evil of authoritarianism.

- i) Are you sick of *Big Brother* interference in your business and family life?
- ii) Do you feel a burning sense of injustice at the treatment of the unvaccinated?
- iii) Do you hear the alarm bells of historic prejudice ringing in your ears?
- iv) Are you fed up at being treated like a fool?
- v) Is there fire in your belly to march for equality?
- vi) Will you pledge to fight for the truth?
- vii) And, above all, will you be a champion of freedom?

Thank You

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14<sup>th</sup> December 2021

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