Lawyers' petition protests 'erosion of our free society' through vaccine passports, mandates

Government and business mandates result in breaches of privacy and civil rights, say lawyers

By Elizabeth Raymer
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On Nov. 12, four Ontario lawyers launched the Free North Declaration and petition, which encourages lawyers and members of the concerned public alike to protest the curtailing of civil liberties in response to COVID-19.

The declaration is a call to arms, protesting "the erosion of our free society" and calling for an immediate end to vaccine passports and mandates — issues that have become lightning rods in the past year — and a public inquiry into the handling of all aspects of the declared pandemic.

In less than two weeks the Free North Declaration petition has garnered signatures from nearly 39,000 members of the public, and around 300 lawyers.

"We have received many messages of support from other lawyers, praising this as a tremendously important initiative," said Lisa Bildy, principal of Libertas Law in London, Ont., and one of the declaration's initiators, adding that it has also had a few detractors on social media.

The citizens who have signed come from all walks of life, she said, including doctors, police officers, engineers, labourers, students, nurses, business owners, along with a former medical school dean and a former university vice-chancellor.

"Those who have left specific comments have expressed gratitude that someone is putting their concerns into words, and that there are still lawyers willing to try to advocate for people facing challenges from these lockdowns and mandates," Bildy told Canadian Lawyer.

"Many are feeling increasingly distressed by where this country is going, whether they have chosen to be vaccinated or not."

The declaration — which was the initiative of lawyers Bildy, Stephen Penney, Christopher Nunn and Bruce Pardy, a professor of law at Queen's University — warns that "civil liberties are under unprecedented attack" in Canada, through restrictions placed on citizens' abilities to work, shop, travel and socialize.

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"Since COVID hit in March 2020, public health officials have been imposing restrictions on average citizens by fiat, and the hardships have mounted steadily since then," Bildy said.

The declaration also warns of encroaching surveillance of citizens, including through the vaccine passport system that creates "the infrastructure for a global digital surveillance system."

"Once governments have acquired new powers, they rarely give them up," says Pardy. "During COVID, the goalposts have consistently moved to justify more and longer restrictions" on citizenry.

Sergio Karas, the principal of Karas Immigration Law Professional Corporation in Toronto and a frequent traveller, is likewise concerned about increasing digital surveillance and the undermining of privacy rights.

Today's vaccine passports could evolve into a registry of all COVID tests that an individual has taken, he says. "This is like a gift [to government]," he adds; "it feels like it is a gateway for the government to exercise a tremendous amount of control over our lives."

Karas adds that he fears "we [are] creating a whole class of people who are going to be denied service for, today it's the airline, and tomorrow, something else? And it's a slippery slope. ... Canada has not been at the forefront of the defence of individual rights in this particular aspect."

While Canada has championed and legislated on data privacy and individual rights, including over personal medical information, "everything [now] seems to have been turned on its head."

Those who were persuaded that the way to a return to normal was two vaccine shots have been sold a bill of goods, Pardy adds; "vaccine passports establish an infrastructure capable of turning us into a surveillance society."

Since politicians have presented no hard timelines or criteria to repeal emergency legislation or other restrictions on civil liberties, and people willingly comply with requirements to present their medical information to restaurant servers, coaches or employers, Penney questions what a "return to normal" will look like.

"In Ontario, herd immunity was going to be reached when 70 per cent of the population was vaccinated and hardly a feather was ruffled when that goal post was continually moved," says Penney, a partner in Lennox & Penney LLP in Cambridge, Ont.

"The social contract has been breached."

Courts in Canada have not been at the forefront of individual rights in regarding COVID requirements and restrictions, says Karas: "they've shown enormous deference to the government in terms of this [vaccine] mandate," whereas in the United States "many courts are taking the opposite approach." A 6th U.S. Circuit Court of Appeals recently halted the federal government's rule requiring businesses with at least 100 employees to ensure workers are vaccinated against the coronavirus, or wear masks and undergo weekly COVID-19 testing.

American states with the least restrictive policies are among the most successful in terms of COVID results, Pardy says: "In Canada, in contrast, most governments and public authorities are in hard-line lockstep, as though no dissent shall be tolerated — and that is also how citizens sceptical of the prevailing COVID narrative are being treated, especially with regard to their own medical choices."

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