DR. HERMAN J. EDELING

NEUROSURGEON / MEDICO-LEGAL PRACTITIONER / MEDIATOR

M.B.,B.Ch.(Wits) : F.C.S.(S.A.)(Neuro) : HPCSA Reg No: MP 180408 : PR 2401002

Consulting Rooms
85 St Patrick Road
Houghton
Johannesburg.

Postal Address
PO Box 1158
Houghton
2041

Gauteng - Republic of South Africa

Telephone : 011-648-5101

Email : edeling@emlct.com

SARS-CoV-2 Viral mRNA or DNA
Spike Protein Inducing Injectables

Pfizer, Moderna, J&J and AstraZeneca

Constitutional Provisions relevant to so-called "Vaccine Mandates"

It has been noted with interest how many lawyers and corporate executives have chosen to rely on the provisions of Section 36 of the Bill of Rights of the Constitution of South Africa to justify so-called "vaccine mandates". This in the context of promoting or coercing the injection of unproven SARS-CoV-2 Viral mRNA or DNA Spike Protein Inducing Injectables into human beings without informed consent.

But what does Section 36 of the Bill of Rights really say?

Limitation of rights 36

(1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—

(a) the nature of the right;

(b) the importance of the purpose of the limitation;

(c) the nature and extent of the limitation;

(d) the relation between the limitation and its purpose; and

(e) less restrictive means to achieve the purpose.

(2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

MEDICAL ASPECTS

In the context of so-called "vaccine mandates" (see above) and the individual human rights which they seek to limit, provisions (1) (a) to (e) above can be conveniently rephrased as:

(a) the rights to health, dignity, integrity of body and mind, freedom of choice and informed consent;

(b) the importance or otherwise of Covid-19 "vaccines" for the health of individuals and the health of society;

(c) the safety or otherwise, i.e. the risk/benefit ratio, of Covid-19 "vaccines" in the short term and the long term;

(d) the effectiveness or otherwise of Covid-19 "vaccines" at protecting other members of society from transmission of the SARS-CoV-2 virus; and
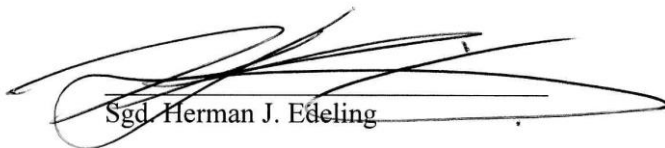
(e) the availability of less restrictive means to protect the health of individuals and the health of society, i.e. means to prevent and treat Covid-19.

On 6 January 2022 I released a report analysing each of the above criteria specified in Section 36, in which it was found that so-called "vaccine mandates" (see above) failed each of the 5 constitutional criteria. Naturally the data reviewed in this report was limited to data available at that time.

On 24 March 2022 I released a further report limited to analysis of the effectiveness of so-called Covid-19 "vaccines", i.e. the provisions in (1) (d) of Section 36. Whereas data that had been available prior to January 2022 had proved lack of effectiveness against infection by and transmission of the SARS-CoV-2 virus, further data that became available during January, February and March 2022 proved lack of effectiveness and preventing severe illness or death from Covid-19.

LEGAL QUESTION

Considering that "*The rights in the Bill of Rights may be limited only in terms of law of general application*" and that in South Africa laws are enacted by the Legislative Arm of Government, the question arises whether any institution, organisation, company or person has the power to limit any human rights in the absence of an applicable law of general application.

Sgd. Herman J. Edeling

28 July 2022

References:

1. CONSTITUTION of South Africa-Bill Of Rights-S36 (pdf attached)
2. COVID-19 Mandates - Medical Analysis wrt SA Constitutional Criteria-Edeling
3. COVID-19 Vaccines - Medical Evidence re Effectiveness-Edeling

       (n)   to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time that the offence was committed and the time of sentencing; and

       (o)   of appeal to, or review by, a higher court.

(4)   Whenever this section requires information to be given to a person, that information must be given in a language that the person understands.

(5)   Evidence obtained in a manner that violates any right in the Bill of Rights must be excluded if the admission of that evidence would render the trial unfair or otherwise be detrimental to the administration of justice.

Limitation of rights

36.   (1)   The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—

       (a)   the nature of the right;

       (b)   the importance of the purpose of the limitation;

       (c)   the nature and extent of the limitation;

       (d)   the relation between the limitation and its purpose; and

       (e)   less restrictive means to achieve the purpose.

(2)   Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

States of emergency

37.   (1)   A state of emergency may be declared only in terms of an Act of Parliament, and only when—

       (a)   the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and

       (b)   the declaration is necessary to restore peace and order.

(2)   A declaration of a state of emergency, and any legislation enacted or other action taken in consequence of that declaration, may be effective only—

       (a)   prospectively; and

       (b)   for no more than 21 days from the date of the declaration, unless the National Assembly resolves to extend the declaration. The Assembly may extend a declaration of a state of emergency for no more than three months at a time.