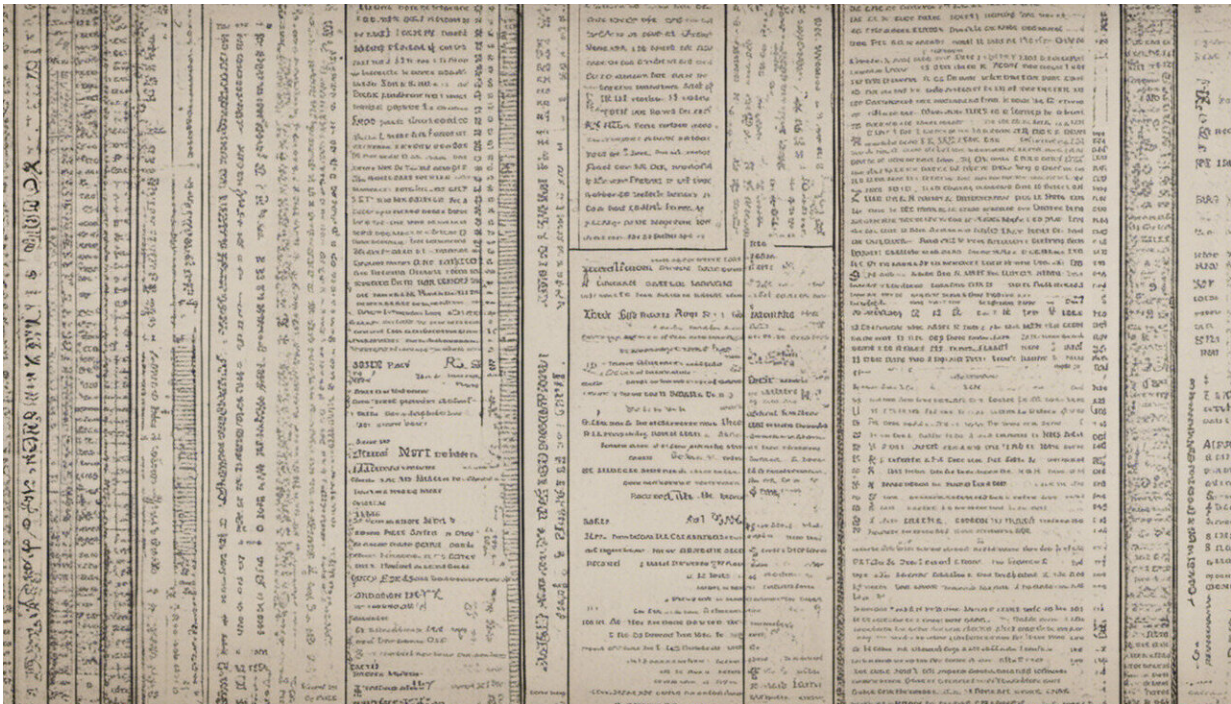


# Head to head: The ethics of vaccine passports and COVID passes

December 23 2021, by Alberto Giubilini and Helen Kennedy



Credit: AI-generated image ([disclaimer](#))

[COVID passes for England were given the green light](#) in parliament in December, with 369 MPs voting in favour and 128 against. From now on, people attending large events will be required to show proof of vaccination—two doses, to become three after a "reasonable" amount of time—or a recent negative lateral flow test. The schemes were already

being used in other parts of the UK, with slight differences.

First mandated in Israel, COVID passports consist of a paper or digital document that provides proof you have been fully vaccinated against COVID, have recovered from the virus, or have recently tested negative. The vaccination certificates were adopted widely around Europe, for sole domestic use in some countries and as travel passes in others.

But some critics have [questioned](#) the need of enforcing a [passport](#), on the basis that while vaccines have been proven to reduce the chance of falling seriously ill, they do not fully stop the spread of the disease. And an increasing number of commentators have [leveraged](#) ethical arguments, comparing vaccine passports to a form of state coercion. We asked digital society professor Helen Kennedy and ethics researcher Alberto Giubilini for their views.

**Alberto Giubilini:** We've never had to deal with a pandemic like this in our lifetime. For the last year and a half, we've undertaken all sorts of big experiments, some of which have yet to be proven to work. One is lockdowns: [the huge costs involved](#) hadn't been predicted or taken into consideration, even when introduced for the second or third time.

Lockdowns might well reduce the number of infections, but if the aim is to protect [public health](#) and the NHS, we shouldn't ignore the fact that very large public health costs are caused by such restrictions. Just a few examples of these are the impact on [young people's mental health](#), [missed cancer diagnoses](#) and the [interruption of vaccine supplies to poor countries](#).

Similarly, [we don't know](#), and it is hard to predict, the gains and harms of enforcing vaccine passports. Ultimately, it comes down to doing a risk assessment. So how do you do that? The main problem is that it's difficult to pin down the counterfactual. What would happen if a country

like [Italy](#), for example, didn't have vaccine passports? Perhaps there would be more infections. But even if that was the case, would that necessarily be bad, given that vaccines are very good at [preventing hospitalisations](#) among the most vulnerable and that allowing infections to spread among the young [can boost natural immunity](#)? These are all very uncertain issues.

Perhaps vaccine passports result in a decrease in hospitalisation rates, and therefore a lesser burden on the healthcare system. But that still doesn't resolve the question of whether they are ethically justifiable. [Some people](#) think that enforcing vaccine passports might not be ethically acceptable if it violates certain individual freedoms for the sake of certain public goods.

There is a coercive element to vaccine passports: some might feel forced to get vaccinated to avoid the onerous alternative of constant medical tests or, worse, reduced freedoms. A conflict is at play between bodily autonomy—the capacity and right to make one's own decisions over what happens to one's body—versus the collective level of safety necessary to protect [vulnerable people](#) and the healthcare system. What we need to figure out is how to strike a balance between individual rights and the public good.

But this conflict doesn't just apply to vaccination. It applies to all discussions about the freedoms we have in society, including taxation, for example. Should we have the right to keep our money or should we give something to the state for the public good?

When considering giving priority to some people's freedom to choose whether or not to get vaccinated over other people's freedom to be safe, we should ask who would suffer the greater burden. In my opinion, the burden of mandatory vaccination is small compared to the burden of not being able to lead a normal life faced by [those at high risk from COVID](#).

A certain degree of safety is, after all, a precondition of freedom.

But at the same time, those at high risk from COVID have access to vaccines that are very effective at preventing serious illness. So one could argue that there is no reason to infringe on the autonomy of other members of society that would want to refuse the vaccines—especially given that current vaccines [are not very effective](#) at stopping transmission, a problem likely amplified by the new omicron variant.

You could call this a conflict of freedoms: between freedom of choice about a medical intervention like vaccination and the freedom of vulnerable people who cannot receive the vaccine for medical reasons, or for whom the vaccine is not effective, to have a normal life. Which infringement of freedom is the largest burden and which one is justified? That's what we should ask.

We should not assume that this question would have the same answer for all groups. Maybe restrictions of freedom are justified for certain segments of society—say, vaccination requirements or passports for those at high risk from COVID-19—but not for others—say, young people and children, who are at low risk from COVID-19. Especially if vaccines do not prevent [transmission](#) too well and so there is little public health benefit in vaccinating everyone.

**Helen Kennedy:** But the anxiety around vaccine passports is tied up with other tricky questions, too—what a vaccine passport might look like, whether it would be in the form of a paper or digital certificate, and what kind of technologies would be used to implement it. Will it use controversial biometric facial recognition technologies, or less controversial pieces of paper? All of those things contribute to whether these concerns are reasonable or not.

There are also concerns about what kind of future vaccine passports



would take us towards. The concerns exist in part because of a lack of clarity around how long such measures would be in place for. There are concerns about data-gathering or data-sharing measures. Who gets access to data and for how long? At the beginning of the pandemic, for example, medical data was [shared with supermarkets](#) so they could deliver food to the extremely clinically vulnerable, but we would be concerned if that was still happening now.

With the NHS COVID data store, the concern is around the nature of the contracts with the private tech companies involved in building the infrastructure. What data do they get access to, for how long, and what can they do with it? In June 2020, OpenDemocracy coordinated a [campaign](#) based on widespread concern that the government was transferring personal health information to private companies. Understandably, where there is not clear information about the future, there is concern about the future.

Ultimately, there is a broader issue here: namely, whether ID systems are compatible with rights respecting societies. And this is a tricky one. A lot of privacy advocacy organisations, such as [Big Brother Watch](#), would say that the two things are [incompatible](#). But [a number of countries](#) have vaccine passports, and in the UK we've been providing evidence of our vaccine status for a while now—to travel and to get into large-scale events, for instance. Even though we don't use the label "vaccine passports", that is effectively what they are. I personally don't think it is the case that countries with either vaccine passports or with full ID systems have worse civil liberties or are less democratic than the UK.

**AG:** I largely agree with everything you said—I think concerns about ID societies are a bit exaggerated. This does not necessarily mean population-wide vaccine passports are permissible. But if one wants to argue against them, it is important to focus on what are good objections and what are not.

Some countries already enforce vaccine passports in the form of school mandates. In the US, for example, children cannot go to school unless they can prove they've been vaccinated against certain diseases. Now, both the US and other EU countries are simply attempting to implement this on a larger scale. I come from Italy, which other than vaccine passports—which are labelled "green passes" there—has also had national IDs since 1931, and I wouldn't say that there are fewer rights or civil liberties there than in the UK. And even if there were, the blame shouldn't be pinned on IDs or vaccine passports. The concept of a national ID is much less controversial for Europeans than it is for British people.

The argument being made against vaccine passports often frames them as a slippery slope. They are rejected not so much or not only because they're wrong in themselves, but because they're seen as the first step towards something that is clearly unethical—some Orwellian dystopia where the state controls everything and there is no such thing as privacy. But we are very far from that.

**HK:** Except that the implications are not just about privacy. There are societal level issues, too. I've done surveys on public opinion about different types of data gathering, including a [survey](#) into people's attitudes to data uses. This found that people are concerned about data being used in unfair ways in very high numbers.

So public concern is not so much about "me and my data and my privacy", but rather the ways in which data collection and data-sharing through vaccine passports and other measures increases the already phenomenal power of private companies and governments. These companies have already got more access to said data than the rest of us, and use it to make decisions that affect our lives.

Another collective concern is how data collection risks reproducing

inequalities. With vaccine passports enforced in England, people could end up being discriminated against. Some people can't get vaccinated because of their age group, or because they're clinically vulnerable. Others are undocumented migrants and some GPs won't register them. In low income countries, only around 2% of people have been vaccinated so far. There is [vaccine hesitancy](#) in some groups and earlier data suggested that's greater within some ethnic minority groups, religious groups and people on low incomes.

There are often good reasons why some people from low income and minority ethnic backgrounds distrust authorities trying to convince them that the vaccine is good for them. Investigating links between distrust and inequality will help us make sense of why some people don't get vaccinated, and would therefore be disadvantaged by the use of vaccine passports.

**AG:** Indeed, one concern I have is around global inequality and inequity, as you mentioned. Travellers from countries that are still scrambling for vaccine doses could have their freedom of movement curtailed and would, in this sense, be discriminated against unfairly.

As for concerns about state discrimination, I find them misplaced. Again, this does not necessarily mean that population-wide passports are acceptable, but that we need to identify the good objections and not focus on the weak ones. One could talk about discrimination if, among people living within a country with a vaccine passport scheme, it was either difficult or impossible for some people to access the vaccine. That would definitely be a form of discrimination, as they wouldn't be the ones responsible for not being able to get vaccinated.

But countries that either have introduced or are planning to introduce a vaccine passport scheme do not have this problem. In the UK, vaccines are widely available to everyone who is eligible—namely, everyone

above the age of 12. To say that people who do not observe a law that is justified are being discriminated against simply because they suffer the legal consequences of not observing it, makes very little sense.

According to this logic, every law would be discriminatory. The law must be unjustified in order for the discrimination charge to be a real ethical issue. But whether it is justified is precisely the issue at stake.

As for groups who are reluctant to get the vaccine for cultural or social reasons—I agree with you that there might be far-reaching reasons why they might not trust the medical system. But if a vaccine passport may be something that further exacerbates inequalities, or highlights the existence of inequalities, it is still not at their origins. The answer is not to avoid the vaccine passport, but rather to address the underlying reasons why certain people don't get vaccinated. The problem you're describing didn't start with vaccines.

I don't see why an underlying structural problem should itself be a reason against a specific measure that might have a large collective benefit as well as a benefit for those individuals, as opposed to being a reason for addressing the problem.

If we do come to the conclusion that vaccine passports are justified, at least for certain segments of the population, and there is no discrimination being directed against a specific group, then I don't think it matters if they go on forever or for one year. But of course, that is a big "if".

**HK:** I disagree with you on the idea that everyone can have a vaccine if they want to because they're available for everyone. It assumes an equality that doesn't exist. Maybe by law and maybe technically they're available, but as I said, some people are distrusting and some people are hesitant.



Inequalities related to poverty or ethnicity that lead some people to distrust and others to be hesitant are feeding into who gets vaccinated and who doesn't. Some people's experiences of life are shaped by social inequalities. I don't think you can ignore them because, in theory, there's a vaccine for anyone who wants it.

I think the concern about where this is heading is valid. And it's been there since the beginning of the pandemic with any kind of data gathering process. Things that have been introduced ostensibly because of the pandemic, are being pushed to be carried on after the pandemic. And those are the sorts of things that should worry us, I think.

I always refuse to make predictions, but the future is where the concern lies, isn't it? It's the concern of privacy advocates and of organisations like Big Brother Watch that [vaccine](#) passports may lead us to a checkpoint society or a more surveillance-based state. And even if there was a policy that guaranteed it isn't going to happen, that could change in the future. Policies change, circumstances change.

What's interesting is that maybe a year and a half ago, the language of crisis could be mobilised to justify measures that people might not find acceptable in normal times. But a year and a half later, it is still mobilised as a justification for things.

The philosopher Giorgio Agamben talks about the [state of exception](#). His argument is that if you always describe things as a state of exception, you can try to get away with murder all of the time.

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