

High Court Strikes Down New Zealand Prime Minister's Vaccine Mandate, 'Gross Human Rights Violation'



New Zealand Prime Minister Jacinda Ardern's [vaccine mandate for police officers](#) and defense staff was struck down on Friday by the High Court for being a "gross violation of human rights."

Unvaccinated police officers and NZDF staff [faced losing their jobs](#) on March 1 if they did not receive two doses of an experimental COVID vaccine and sought a judicial review.

In the decision, Justice Francis Cooke determined ordering police officers and defense staff to get vaccinated or face losing their jobs was not a "reasonably justified" breach of the Bill of Rights.

The case was brought by three individuals who questioned the legality of making an order under the COVID-19 Public Health

Response Act to require vaccination for frontline employees. A group of 37 employees also affected by the mandate submitted affidavits to the court.

According to the [New Zealand Herald](#), the group targeted two elements of the Bill of Rights – the right to decline a medical procedure and the right to religious freedom. Those objecting to taking the Pfizer vaccine on religious grounds argued that it was tested on cells derived from an [aborted fetus](#).

Although Justice Cooke did not think the mandate violate religious freedoms generally, he agreed that “an obligation to receive the vaccine which a person objects to because it has been tested on cells derived from a human fetus, potentially an aborted fetus, does involve a limitation on the manifestation of a religious belief.”

Justice Cooke also agreed with the claim that the mandate encroached on the right to decline a medical procedure. He said the government isn’t forcing police and defense employees to get vaccinated against their will, as they still have the right to refuse the vaccine, but the mandate presents elements of pressure.

“The associated pressure to surrender employment involves a limit on the right to retain that employment, which the above principles suggest can be thought of as an important right or interest recognized not only in domestic law, but in the international instruments,” Justice Cooke stated.

Justice Cooke also considered whether the mandate was in alignment with the COVID-19 Public Health Response Act.

Although the court recognized vaccination is beneficial in limiting serious, illness, hospitalization and death, it was less effective at reducing infection and transmission of Omicron.

“In essence, the order mandating vaccinations for police and NZDF staff was imposed to ensure the continuity of the public services, and to promote public confidence in those services, rather than to stop the spread of Covid-19,” Justice Cooke said. “Indeed health advice provided to the government was that further mandates were not required to restrict the spread of Covid-19. I am not satisfied that continuity of these services is materially advanced by the order.”

The Justice further explained the threat of transmissibility with Omicron exists for both vaccinated and unvaccinated staff, and he wasn't satisfied the order made a material difference on the effects of vaccination on COVID – including the Delta and Omicron variants.

After the ruling, the lawyer for the police and defense staff called for suspended workers to be allowed to return to their jobs immediately – many of whom have devoted decades of service to their communities.

“The affected workers feel let down and betrayed by this Government who attempted to dismiss them from their jobs based on an unlawful order or an order that has now been held to be unlawful,” said Matthew Hague, counsel for the applicants.

The mandate affected 164 of 15,700 police employees and 115 of 15,500 defense staff who had chosen not to get vaccinated.

In identical statements on Friday, spokespeople for both Police and NZDF said nobody will be fired while a decision is being considered by the government.

Police Association president Chris Cahill said it had “never taken the position of making a medical or moral call on vaccinations, but did support legally backed mandates,” but now that the “court has now clarified the legal status of the Police mandate and deemed it to be unlawful,” the association calls for all officers affected by the decision to be reinstated and returned to work as soon as practicable.

Cahill added he believes the ruling has implications for policies relating to vaccinations of non-sworn police employees and believes all mandates should not be dropped.