The Ethics of Vaccine Refusal

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More specifically, the CDC claims vaccination is a highly cost-effective means of reducing the morbidity and mortality associated with diseases such as smallpox, measles, mumps, rubella, diphtheria, and polio.

Anti-vaccinationists’ challenges

- Scientific objections to
  - vaccine effectiveness
  - need for wide-spread vaccination
- Fear of individual harmful effects
- Side-Effects/Safety
  - Weakening of the Immune System
  - Actual transmission rather than prevention of disease
  - Autism, Guilian-Barré Syndrome

Empirical Responses

- Explanation/Persuasion - Provide correct information and evidence on:
  - Effectiveness
  - Need
  - Safety
- Compensation - Provide mechanism for redressing vaccine-related injury

The Centers for Disease Control and Prevention claim “[v]accines are one of the greatest achievements of biomedical science and public health.”

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Legal Basis for Vaccination Mandates

“The preservation of the public’s health is among the most important goals of government.”

Core Concepts of Public Health Law

- Population-based perspective
- Role of government in advancing public's health
- Relationship between people and State
- Role of coercion


Legal Authority for Vaccination Mandates

State Police Power - The natural authority of a sovereign government to regulate private interest for the public good.


Legal Challenges to Mandated Vaccination Programs

- Violates federal constitutional principles of individual liberty or due process
- Unjustified governmental interference with individual choice/autonomy
- Violates First Amendment principles protecting personal religious beliefs


Jacobson v. Massachusetts

197 U.S. 11 (1905)

- Issue: Small Pox vaccination
- Justice Harlan: The only liberty an individual has is that regulated by law.
- Law's police power aims to promote the good
- Prevention of epidemic disease part of good and of paramount necessity

Trade-offs

- Public Health Benefits
- Infringement of Individual or Parental Choice

More Trade-offs

- Public Health Benefits
- Actual harm to a small proportion of vaccine recipients
Moral Challenges to Mandated Vaccination Programs

In *On Liberty* (1859), John Stuart Mill claims “over himself, over his own body and mind, the individual is sovereign.”

On similar grounds, opponents of vaccine mandates claim that we may not compel unwilling individuals to accept vaccination, given the inviolability of one’s person

Corollary to Informed Consent

Informed Refusal

Abortion

Sovereignty over one’s body

- Can’t compel a woman to abort her pregnancy.

End of Life Care

- Can’t compel life prolonging treatment including:
  - Ventilator - *In Re: Quinlan* (1976)

What is the Value of Individuality?

Intrinsic - Mill maintains “[w]here, not the person’s own character, but the traditions of customs of other people are the rule of conduct, there is wanting one of the principal ingredients of human happiness.” *On Liberty* (1859)

What is the Value of Individuality?

Instrumental Value - “While mankind are imperfect there should be different opinions, so it is that there should be different experiments of living . . . the worth of different modes of life should be proved practically.” *On Liberty* (1859)
**Threat to Individuality**

“The despotism of custom is everywhere the standing hindrance to human advancement.”

“The majority, being satisfied with the ways of mankind as they now are (for it is they who make them what they are) cannot comprehend why those ways should not be good enough of everybody. *On Liberty* (1859)

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**Response: Mill’s Harm Principle**

- “The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will is to prevent harm to others.”
- Proponents of vaccine mandates argue that we may coerce unwilling individuals to accept vaccination when their refusal poses a risk of harm to those unable to be vaccinated, or the population more generally.

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**Indeterminacy of Mill’s Harm Principle**

- How serious?
- How pervasive?
- How persistent?
- How avoidable by alternative means?

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**Concrete Questions**

- In addition to an obligation not to directly (intentionally) cause harm, do we have an obligation to prevent harm?
- To what extent are we morally obligated to prevent harm to others?
- How much additional risk should one individual incur to reduce a risk to others?

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**Differing Moral Perspectives**

- Individual Welfare/Interests
  - Rights of Non-interference
- Overall community Welfare/Interests
  - Duties to Others

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**Further Competing Duties**

- Immunizations are often provided by clinicians who are guided by clinical ethics.
  - Fiduciary duty to protect patient’s welfare.
- Public health justification for immunization is population-based.
  - Fiduciary duty to protect public’s welfare.
Individuals assess risks to their children very differently than public health officials gauge the public risks of vaccination. A statistically insignificant chance of an adverse reaction to a vaccination may not ultimately shift public health policy underlying its use, but it means everything to the parents whose child is injured.


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Individualistic vs. Societal Perspective

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Individualistic vs. Societal Perspective

Opting out of immunization may be in the individual’s interest, if herd immunity isn’t compromised, but in the aggregate, such choices threaten to undermine herd immunity. Problem of the “tragedy of the commons” - benefit will be lost if too many people make the same self-interested decision (not to immunize).

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Moral Integrity

“IT is absurd to demand” that an individual bracket his own “projects and attitudes which in some cases he takes seriously at the deepest level, as what his life is about . . . It is to alienate him in a real sense from his actions and the source of his action in his own convictions. It is thus, in the most literal sense an attack on his integrity.”


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Additional Objection - Religious

- Not simply making a claim of bodily integrity
- Conscientious objections based on fundamental moral commitments

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Limits to Police Powers

- Immunization must serve a serious public health need and alternative policies must be unlikely to achieve comparable goals at comparable cost.
- Use of persuasion, manipulation, and even coercion but not compulsion.
- Limited exemptions:
  - Medical contra-indications
  - Religion*
  - Philosophical

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Thank You