

A THEORETICAL ANALYSIS OF VIOLENCE, LEGITIMACY, AND ETHICS: THE CASE OF MANDATORY VACCINATION AND COVID-19

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ABSTRACT

This article explores the ethics and legitimacy of two types of violence: vaccine refusal and mandatory vaccine policies. Literature regarding justifications for these two types of violence is explored before applying a theoretical analysis led by Galtung's conceptualization of violence. Furthermore, the theoretical arguments regarding ethics and legitimacy are applied to the case of the COVID-19 pandemic in the United States. I use the theory of utilitarianism to explore the consequences of enacting each type of violence and conclude that mandatory vaccination policies are far more legitimate than vaccine refusal because they maximize the wellbeing of a larger portion of the population. This article is useful in evaluating the legitimacy of public policies, but it is theoretical and not directly applicable to the complex and fast-changing pandemic. Therefore, this article should be used to provide an ethical analysis and theoretical backing for the evaluation of potential policies.

KEYWORDS: COVID-19; United States of America; Utilitarianism; Ethics; Public policy

INTRODUCTION

At the time of writing, the United States (US) has delivered 130,000,000 doses of the Pfizer BioNTech, Moderna, and Johnson & Johnson COVID-19 vaccines (CDC, 2021). The creation and approval of these vaccines have come none too soon, as the COVID-19 pandemic almost a year in has caused the death of close to two million people worldwide, countless job losses, and mandatory government limits on movement of peoples (Moreland, 2020; CPS, 2020; WorldOMeter, 2021).

Public health experts do not agree on the exact threshold proportion of the population that must be vaccinated or have recovered from the disease in order to achieve herd immunity, but experts estimate the threshold to be between seventy and ninety percent. Herd immunity, ideally achieved through vaccination, would reduce circulation of the virus in the population enough to protect those who are at risk or cannot be vaccinated. (D'souza and Dowdy, 2020; MU Health Care, 2020; Mayo Clinic 2020). As the world is beginning to look at the possibility of relief from this pandemic through vaccination, we are faced with complex logistic, legal, and ethical questions.

In the US, government-imposed measures throughout the pandemic have been extremely controversial and polarizing. In the turbulent American society, violence between individuals and between the government and individuals seems to penetrate many aspects of life. In the past few years alone there have been numerous cases of police brutality, violent clashes between protesters and police, mass shootings, gang violence, and more (Bates, 2020; Lemieux et al., 2020; Schwartz and Jahn, 2020). The case of the pandemic has been no different: protests against public health measures such as business closures, mask mandates, and stay at home orders have taken place across the country, at times turning violent (Shepherd, 2020). In a polarized and violence-prone country with its political right and left digging in their boots, will the US reach the necessary threshold proportion through voluntary vaccination?

Current polls from the Kaiser Family Foundation show that 71 percent of Americans say they will take the vaccine once it becomes widely available (Dwyer, 2020). Whether or not these citizens will act according to their poll results is unknown, but this statistic points to the possibility that the US should plan for a situation in which the threshold proportion is not met through voluntary vaccination.

Therefore, should mandatory vaccination be considered? What are the ethical arguments on each side of this issue? Is it ethical for the government to enforce vaccination? These are the questions that will be theoretically explored in this article. I will review literature regarding anti-vaccination and mandatory vaccination arguments, followed by an application of these theoretical arguments, as well as ethics and violence theories, to this case study. I will conclude by discussing the limitations of this analysis, its significance, and implications moving forward.

LITERATURE

Literature on mandatory vaccination has focused on ethical, legal, and public health aspects of the issue and in this article I focus on ethical arguments for and against mandatory vaccination in order to contextualize my ethical analysis in the coming section. Arguments against mandatory vaccination often revolve around the principle of individual freedom. This principle is extolled by various groups who value freedom above almost all else and religious fundamentalists, including so-called 'anti-vaxxers', who ground their stance in religious arguments, but appeal to the public and government through the rhetoric of freedom. Scholars have tended to focus on the emergence of anti-vaccination communities and dissemination of disinformation on social media (Kata, 2010; Fadda, Allam and Schulz, 2015; Tomeny, Vargo and El-Toukhy, 2017; Hoffman et al., 2019), but have focused less on the content of the arguments themselves, which is the most relevant aspect of the

literature for this article because it sheds light on how anti-vaxxers use ethical justifications for their actions.

A small number of studies have looked into the content of these arguments and measured the prevalence of certain opinions in those who refuse vaccinations. Antommara and Prows (2018) studied religious exemptions for vaccines within healthcare workers themselves in one hospital in Ohio. They found that overall, requests for religious exemptions made up less than .33 percent of healthcare staff at this hospital. Three quarters of the respondents cited impurity as a reason to refuse vaccines, subscribing to the belief that the injection would make their bodies impure because vaccines were considered foreign or unclean, and some believing that they should not put anything 'foreign' in their bodies. Another common reason was that the faith of an individual would protect them from disease (Antommara and Prows, 2018: 390).

Another study by Hoffman et al. (2019) examined the opinions expressed in public Facebook groups of anti-vaxxers. The scholars identified four "sub-groups", or themed arguments circulating within these groups. These groups consisted of those who distrust the medical community and emphasize liberty, those who prefer homeopathic protection to vaccines and emphasize the perceived chemical nature of vaccines, those who think that vaccines are unsafe and immoral, and those who think that the existence of viruses and vaccines are part of a grand government and medical conspiracy against civilians (Hoffman et al., 2019: 2220). From these two in depth studies on the arguments and opinions within anti-vaccination communities, it is clear that they draw on a diverse and somewhat unrelated mishmash of justifications stemming from the moral good of liberty, the perceived immorality of vaccines as unnatural, a distrust in the government and medical community, and a unilateral declaration that vaccines are not safe, not moral, and not necessary.

However, one consistency between these justifications is the focus on the individual as the unit of analysis and not on the wellbeing of the society as a whole. It should be noted that the arguments of anti-vaxxers are in no way supported by facts or scientific study (Nguyen and Catalan-Matamoros, 2020).

In contrast, for those supporting vaccination in general and mandatory measures in certain cases, the main assumptions and justifications are far more consistent than the diverse arguments found within anti-vaccination groups. The main argument of the pro-vaccination group is that vaccines are safe for people to use and that they effectively prevent disease from spreading throughout the population, which is backed by scientific research. A key difference from the anti-vaxxer arguments is that these justifications revolve around what is best and safest for society at large, not the individual. Here the unit of analysis is the general population, an important point that will come to play in the next section discussing utilitarianism.

These justifications of the pro-vaccine camp are met with pushback from the anti-vaxxers, who don't believe that vaccines are safe and believe there are other effective ways to prevent disease. This incompatibility marks the fundamental disagreement between these two groups. The moral argument presented by those who support mandatory vaccination is that an individual does not have the right to put others in avoidable danger, which they would do by refusing vaccination (Flanigan, 2014). Notably, this argument does not mean that personal freedom is not valued, but that personal freedom cannot morally allow individuals to harm others.

In fact, even a libertarian analysis (a philosophy that disapproves of government intervention) of mandatory vaccination programs shows support under the principle of stopping harm to others (Brennan, 2018). Even this analysis holds that the

state can coerce individuals to not harm each other, though it cannot coerce individuals into following moral duties in general (Brennan, 2018: 40). Furthermore, the "clean-hands principle" is invoked, which compels libertarians not to contribute to harm, or make sure that their hands are clean of harm even if it is not directly attributable to any individual, as in the case of viral spread (Brennan, 2018: 40–41). This principle falls in line with the main argument for mandatory vaccinations, summed up well by medical ethics scholar Jessica Flanigan:

Vaccine refusal harms and risks harming innocent bystanders. People are not entitled to harm innocents or to impose deadly risks on others, so in these cases there is nothing to be said for the right to refuse vaccination. Compulsory vaccination is therefore justified because non-vaccination can rightly be prohibited, just as other kinds of harmful and risky conduct are rightly prohibited (Flanigan, 2014: 5).

However, we are faced again with the basic incompatibility between these two groups, which lies in assumptions about the safety, effectiveness, and necessity of vaccines. Rather than engaging in this incompatibility, I choose instead to analyze the effects of each group's actions through theories of violence. In the next section I explore principles of violence and legitimacy, incorporate them with the aforementioned concepts of anti-vaxxers and mandatory vaccination policies, and apply them to the case of COVID-19 vaccine rollout.

ANALYSIS - GALTUNG AND VIOLENCE

In this section I apply concepts expressed in anti-vaccination and mandatory vaccination arguments to the current case study of COVID-19 and the rollout of vaccines. Firstly, I would like to bring in Johan Galtung's conceptions and typologies of violence, in order to provide a different framework for

understanding each side. Galtung is the pre-eminent scholar theorizing violence and the main founder of peace and conflict studies. His conceptualization of violence is more broad than common understandings of the term, in fact he states that “violence is present when human beings are being influenced so that their actual somatic and mental realizations are below their potential realizations” (Galtung, 1969: 168). Essentially, he considers violence to be any influence that limits human potential or choices beyond what is natural. According to this definition, both vaccine refusal and mandatory vaccination policies represent distinct forms of violence. Both of these decisions can restrict the choices and potential of individuals. I will make this argument throughout the next section, going into depth on Galtung’s typologies of violence.

Galtung lays out six dimensions or spectrums through which we can typify and analyze violence: physical and psychological, negative and positive motivations, interpersonal or not, direct and structural, intended and unintended, and manifest and latent (Galtung, 1969: 169–172). Relevant to this discussion, I would like to pull out the dimensions of direct and structural and manifest and latent.

The spectrum of direct to structural violence refers to the actor committing the violence or limiting someone else’s choices. According to Galtung, direct violence occurs when an individual chooses to inflict violence. On the other hand, structural violence often occurs within institutions where the choice to inflict violence cannot be traced back to one individual, but is enacted nonetheless (Galtung, 1969: 170–171).

Anti-vaxxers inflict direct violence on the general public, especially those with whom they come into close contact. When someone chooses not to be vaccinated, they make a personal choice to allow themselves to be a disease carrier and transmitter, thereby choosing to put others at risk of infection.

In contrast, policies for mandatory vaccination should be considered structural violence. Such a policy physically invades and penetrates an individual through the injection process, though this is a theoretical argument as most mandatory vaccination policies do not mandate forced vaccination, rather fines and restrictions on benefits or employment for non-compliance (Flanigan, 2014: 19). Additionally, in regard to the structural nature, no individual alone directly decides to inflict this violence on others. Though some politicians or public health experts may be proponents of such policies, it is impossible to pinpoint a decision by a single individual that creates an institution-wide policy. Similarly, though an individual nurse may inoculate someone or an individual judge may set a fine for not following mandatory vaccination policies, these people are acting as arms of the institution. Therefore, mandatory vaccination policies can be seen as a form of structural or institutional violence.

The spectrum of manifest to latent violence refers to observability: manifest violence can be directly seen and latent violence cannot, it is a threat of manifest violence that could be easily enacted. Time scale is also relevant to this dimension. Manifest violence can be characterized by its ability to be seen because it has already been enacted. On the other hand, latent violence is about to happen at any moment (Galtung, 1969: 172). In this case, vaccine refusal can be viewed as latent violence. Firstly, the violence enacted by anti-vaxxers does not come from a single person who refuses vaccination. Rather, it is a collective effect or collective action problem (Brennan, 2018: 39). The refusal of one individual may not create much change in the overall threshold proportion needed to protect the society at large. However, as large numbers of people refuse vaccination, all members of society are put at risk. Therefore, it is impossible to attribute the spread of disease throughout society to one individual (Brennan, 2018: 40–41). In this way, the violence enacted by anti-vaxxers is unseen and therefore latent.

Secondly, this type of violence is latent because of the time scale. There is no guarantee that at the time of a single interaction a vaccine refuser is infected with a disease. However, the more they interact, the larger the chance they may be sick during one of the interactions. Furthermore, any individuals put at risk by anti-vaxxers may not be aware of the harm inflicted on them at the moment, as many diseases take days to weeks to incubate before symptoms present. This point is especially relevant to the COVID-19 pandemic, as it can take up to two weeks for symptoms to present and some individuals never exhibit any symptoms (Government of Canada, 2020). In this way, the threat of anti-vaxxers is often unseen at the time of harm, yet the threat for future harm is always present, making this form of violence latent.

On the other hand, mandatory vaccination policies inflict manifest violence. An inoculation occurring without consent is observable and seen at the time this violence is inflicted. Furthermore, fines and restrictions on employment or schooling are also forms of manifest violence, limiting the movement of individuals and their ability to provide for their families financially. This examination of Galtung's definition and dimensions of violence has made it clear that anti-vaxxers can be seen to inflict latent direct violence on other members of the public, while mandatory vaccination policies enact manifest, structural violence against those who would choose not to vaccinate. Clearly, both of these actions are violent and undesirable for society. However, as indicated by the prominent voice of anti-vaxxers and polls on voluntary vaccination rates, the government may face the choice of which type of violence is more legitimate.

LEGITIMACY AND VIOLENCE

In theory, the federal government, as the most powerful entity in the US, has two choices: allow vaccine refusal (including abdicating responsibility to state level authorities) or enact mandatory

vaccination policies. In this way the government allows violence, the question being, which type is more legitimate? Mandatory vaccination policies are a more legitimate form of violence than vaccine refusal because they maximize the public good and welfare of a higher proportion of the population.

When one takes into account the outcome-based morality of utilitarianism paired with the current scope of the pandemic, it is even more evident that mandatory vaccination is a more legitimate type of violence than vaccine refusal. Utilitarianism, as explained by John Stuart Mill, is a theory in which morality is measured by the maximization of pleasure or happiness, which can be applied to an individual, a community, or a whole society (Mill and Crisp, 1998: 9-13). This theory is based on the outcomes of actions, which is very relevant in the case of this pandemic, as national and global outcomes are based on the actions of everyday citizens. His simple proof of this theory is as follows:

- “1. Happiness is desirable;
2. The general happiness is desirable;
3. Nothing other than happiness is desirable” (Mill and Crisp, 1998: 23)

This theory includes the important aspect of welfarism, which asserts that the good of happiness should be equated with the welfare of humans and animals; therefore morality should be measured by the welfare of humans and animals. Furthermore, this version of utilitarianism, as a consequentialist theory, requires that each action's morality be empirically measured by its consequences (Mill and Crisp, 1998: 13-14). According to this component, the morality of vaccine refusal should be measured by its consequences, which fall on the general public. Similarly, the morality of mandatory vaccination programs should be measured by the consequences, or negative effects, on the people who would not have taken vaccines willingly.

When we apply the ideas of welfarism and consequentialism to the case of COVID-19 vaccination, another form of legitimacy for mandatory vaccination appears. According to line two in the proof, general happiness is desirable; moreover, maximizing the average happiness of the population is desirable. Therefore, we are compelled to look at numbers: According to the poll referenced in the introduction of this article, twenty-nine percent of the population is currently not intending to take a COVID-19 vaccine (Dwyer, 2020). We can use this benchmark of twenty-nine percent as the proportion of the population that would theoretically be required to vaccinate or serve other punishments against their will in the case of mandatory vaccination. The consequence of the policy would be that twenty-nine percent of the population would not have their welfare maximized, due to violence inflicted on them. Presumably and theoretically, the other seventy-one percent of the population would be vaccinated voluntarily, allowing the society to comfortably reach its threshold proportion through a combination of voluntary and mandatory vaccinations. In this case the whole society would be able to resume some approximation of their former lives, which can be considered happiness maximization for the seventy-one percent who voluntarily choose that path.

On the other hand, let us consider the welfare consequences of the government failing to step in against vaccination refusal. In this case, twenty-nine percent of the population, those who choose to not be vaccinated, would have their welfare maximized; they would continue to live with the physical and economic threat of COVID-19, according to their choice. Because estimates for the threshold proportion of vaccination against COVID-19 range between seventy and ninety percent (D'souza and Dowdy, 2020; Mayo Clinic, 2020), it is reasonable to think that the voluntary vaccination of seventy-one percent of the population may not reach this threshold. Therefore, the virus would likely continue to circulate through the population and mutate

physically affecting the elderly and sick, and economically affecting untold numbers of people.

The theoretical consequence in this case is the indefinite continuation of the pandemic. As is evident by the state of the pandemic today, virtually every person in the US is affected through contracting the virus itself, the death of loved ones, economic hardship, homelessness, career stagnation, loneliness, depression, anxiety, and fear. We can easily assert that due to these effects, the welfare of the society is currently not maximized, as the population at large is limited in movement, freedom, and wellbeing. Though I nor anyone else can accurately predict the exact state of society in this theoretical case, the continuous circulation of the virus within the population would be expected to indefinitely continue at least some of these negative effects. We can assume that the welfare of the general population, the seventy-one percent who choose to vaccinate, would not be maximized through a prolonging of the pandemic. Therefore, the consequence of the decision to refuse vaccination is the prolonging of the pandemic and its negative effects; the general population would continue to be limited in their happiness and their welfare not maximized.

When evaluating these two theoretical cases, it is evident that the case of mandatory vaccination maximizes welfare for the seventy-one percent of the population who vaccinate voluntarily and the case of allowing vaccine refusal maximizes welfare for twenty-nine percent of the population who choose to refuse vaccines. It is clear that according to utilitarianism, maximizing the welfare of seventy-one percent of the population is more desirable and therefore moral, than maximizing the welfare of only twenty-nine percent. According to this theory, mandatory vaccination policies are moral, while failing to enact them would be immoral, and thus mandatory vaccination policies inflict a more legitimate and moral form of violence than vaccine refusals do.

LIMITATIONS

The main limitation of this article is its imperfect applicability to a quickly changing and complex situation. This article has focused on the theoretical situation in which there is a strict dichotomy between anti-vaxxers and pro-vaccination parties. Similarly, I use a theoretical situation in which there is another dichotomy between mandatory vaccination policies and the absence of them. These binaries are useful in working with theories and assessing morality, but they are false dichotomies in reality. There are many policy options in between mandatory vaccination and no policy on vaccination. For example, vaccine education programs, responsible mass media campaigns, incentives for vaccination, and citizens changing their minds voluntarily are all middle grounds that we will most likely witness in the next year, which would change the calculation on whether mandatory vaccination policies would be beneficial. Within this changing situation, the analysis conducted in this essay is useful as a theoretical backing and as an ethical assessment for reference. However, the theoretical situations discussed do not map cleanly onto the complexity and change of real life.

CONCLUSION

In this article I have addressed mandatory vaccination policies and vaccine refusal as two distinct acts of violence. I used Galtung's dimensions of violence and utilitarian theory to build a conceptual framework for understanding these types of violence, their implications, and their morality. I comparatively evaluated the legitimacy of each, concluding that mandatory vaccination policies are a far more ethically legitimate form of violence than vaccine refusal because they maximize the wellbeing of a larger proportion of the population. Mandatory vaccination policies would maximize the wellbeing of the proportion of the population that chooses to take them and reach herd immunity, about seventy-one percent.

In contrast, allowing for vaccine refusal maximizes the wellbeing of only those who would choose to refuse the vaccine, about twenty-nine percent, while the rest of the population would suffer from likely not reaching the necessary threshold for herd immunity. However, neither option maximizes wellbeing for the entire population.

The implication of this work is a demonstration that both mandatory vaccination and vaccine refusal are not ideal since they both enact violence. A far more desirable situation would be one in which the threshold proportion of vaccination is met through completely voluntary means. Though governments may assess that they are legitimate in enacting mandatory vaccination policies, perhaps they should first invest in programs that could enhance the rate of voluntary vaccination, such as adult education in public health and research into vaccine education methods (Poland and Poland, 2011; Navin et al., 2019). Perhaps another avenue for research would be applying theoretical ethical arguments, such as the ones made in this essay, to a complex situation rather than a theoretical binary situation. This exercise would improve the applicability and utility of knowledge created in this article. Moreover, violence and legitimacy theories must continue to be considered in policy dialogues and decisions relating to public health moving forward to ensure ethical policy.

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