

“The object of philosophy is the logical clarification of thoughts. Philosophy is not a theory but an activity.”

- Ludwig Wittgenstein

Hot Topic: Vaccine Hesitancy and Individual Freedom

Since Plato’s time and before, humankind has grappled with the idea of living simultaneously as individuals and as members of a society. Plato wrote in *The Republic* around c. 375 BCE:

They say that to do injustice is, by nature, good; to suffer injustice, evil; but that the evil is greater than the good. And so when men have both done and suffered injustice and have had experience of both, not being able to avoid the one and obtain the other, they think that they had better agree among themselves to have neither; hence there arise laws and mutual covenants; and that which is ordained by law is termed by them lawful and just.

This is to say, we struggle with the ideas of justice, fairness, and living together with others. The central conflict comes when individual freedom and our moral obligation towards others are in tension. A notable attempt to balance these two concepts came in 1762 with *The Social Contract* by Jean-Jacques Rousseau. The idea is that a person can knowingly choose to limit his/her freedom in order to live peacefully with others. The person remains completely free because they are free to accept those limits.

These considerations invite the question: how do we simultaneously promote our individual freedom along with our desire to live in a society?

These issues are relevant to the current debate about vaccine hesitancy and mandates, because they raise questions about what we owe other persons, and what we owe ourselves. Do we each have an obligation to be vaccinated for the benefit of society? And what do we as a society owe those individual members who refuse to be vaccinated?

Mandate vs. Persuasion

Discussing the ethics of mandating vaccines, Skelton & Forsberg (2020) state that while there are plausible arguments for mandating vaccines for children and adults without decision-making capacity under the best interest standard, such arguments for adults with decision-making capacity are lacking:

[W]hen adults possess decision-making capacity, it is generally taken to be impermissible to treat them paternalistically. Such adults are generally taken to have a robust right to refuse medical interventions even when those interventions are clearly in their best interests and when not undergoing the interventions will lead to their death or serious suffering... (Vaccine mandates) would be hard to justify on grounds of their best interest... (p. 133)

The mandating of vaccines assumes the ethical permissibility of coercion, which in many contexts is viewed as wrongfully limiting a person's right to exercise personal autonomy. That said, the United States has a long history of beneficially mandating vaccine, from Washington mandating soldiers receive vaccines for smallpox to the 1905 Supreme Court ruling in *Jacobson v. Massachusetts*, which gave states the authority to implement vaccine laws. Mandating vaccination has precedent in the United States, but there is ethical debate about whether vaccine coercion might be morally permissible in the context of the COVID-19 pandemic. The moral permissibility of coercion aside, we might be tempted to ask about the moral permissibility of persuasion. Beauchamp and Childress state:

If a physician orders a reluctant patient to undergo cardiac catheterization and coerces the patient into compliance through a threat of abandonment, then the physician's influence controls the patient. If, by contrast, a physician persuades the patient to undergo the procedure when the patient is at first reluctant to do so, then the physician's actions influence, but do not control the patient. Many influences are resistible, and some are welcomed rather than resisted. (p. 138)

By this account, though it may unethical to coerce patients into receiving vaccines, it is not unethical to persuade them. What then could be an ethically permissible way to persuade unvaccinated persons to roll up their sleeves? Could the threat of punishment—i.e. imposed negative consequences for noncompliance—be an ethical form of persuasion?

Problems with Punishment

Some have proposed limiting payout from health insurance if one needs medical care due to COVID-19. This argument may appear to be in line with other arguments about personal responsibility, a paradigm aspect of the American way. But personal responsibility, while significant for patients, is not one of the fundamental principles of medical ethics for healthcare providers.

Arguably, in a fair system, healthcare providers and insurance companies have no right to punish individuals based on their medical decisions, even if demonstrably unwise. Benjamin M. Howard explains that a punitive approach to at least some healthcare choices is a violation of several ethical principles:

Policies with penalizing incentives thus threaten to violate a core principle of biomedical ethics: justice. Understanding that actual determinants of health and disease are deeper than individual choice, and that chronic diseases like diabetes and hypertension disproportionately afflict the disadvantaged and disempowered, individual incentive-based programs may be seen as discriminatory and destructive... Programs based on individual choice are thus problematic in that "choice" is not equitably distributed across socioeconomic strata. (Howard, 2008, p. 721)

Howard further argues that punishment and incentive-based programs cause additional harm:

As physicians, our duty is to serve as advocates who promote our patients' health by listening and collaborating with them to form integrative plans based on the realities of their situation. We best empower patients through partnership, not paternalism. Incentive plans that punish not only interrupt the physician's ability to treat the patient as needed; they threaten to erode the privileged regard granted the healer, and undermine that sacred role of physician as wise counselor, trusted friend, and partner in health. (Howard, 2008, p. 722)

Some may counter the above claims by arguing that healthcare *already engages* in this type of action with organ transplantation, where patient behaviors directly impact their ability to access care. Take, for example, the issue of transplantation for patients with alcoholic liver disease versus for patients who develop end-stage liver disease "through no fault of their own." There are several proposed arguments why this line of thinking is acceptable. Others argue that the "criteria for disqualification are inconsistent and arbitrary, and treatment for alcohol dependence may not be offered. Furthermore, judgments of moral responsibility are not made for other illness" (Lo, p. 307).

It is very important that these types of decisions, and all decisions regarding resource allocation, be subject to sound medical criteria and ethical analysis.

The Role of Medicine

The ethical issues presented by those consciously choosing not to receive the COVID-19 vaccine are, and will continue to be, extremely challenging. However, it is important to remember that the role of medicine and healthcare is to provide beneficial and ethical care. Many of us believe that we should not be introducing coercive behaviors or punishments towards patients, that we should not be

imposing overly paternalistic attitudes, and that we should not judge patients who do not share our beliefs.

But the unique healthcare realities associated with COVID-19 make the attainment of this goal all the more challenging. There is no easy solution to this issue, just as there are no easy solutions to maintaining individual freedom while living together in society.

Bioethics in the News

- [Antiracist Activism in Clinical Ethics: What's Stopping Us?](#)
 - [Bioethics in a Pandemic: Misinformation and Mandates](#)
 - [National Catholic Bioethics Center: Church Teaching Calls for Respect of Both Common Good and Conscience](#)
 - [The ethics of vaccine booster shots](#)
 - [Bioethicist could be next head of FDA](#)
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Case Study

Jennifer is a 44-year-old patient who is critically ill in the ICU. She is COVID positive, and is now going through multi-system organ failure as her lungs and kidneys become weaker. Prior to infection, Jennifer refused to be vaccinated. Some of her caregivers confide to one another that they feel frustrated and angry. “She brought this on herself.” “She signed up for this.”

Due to Jennifer’s critical illness, her family feels it is important to be with her, to stay at bedside, and hold her hand. However, the husband and parents are also not vaccinated. They all have co-morbidities, placing them at greater risk of COVID-19 complications. When hospital staff tell them they cannot go into Jennifer’s room without being vaccinated, they respond that their loved one is dying, and are willing to accept the risks.

What should be done?

Ethical Musings: Autonomy, Respect and Covid-19

In medical ethics, respect for personal autonomy is considered fundamental. Put simply, the right to personal autonomy “means that individuals have a right to self-determination, that is, to make decisions about their lives without interference from others” (Silva & Ludwick, 1999). Given that human right, we ought to respond with respect.

Respect for autonomy is central to ethical patient care. Indeed, we focus much effort on ensuring that the principle is upheld as much as possible. This includes knowledge about informed consent, patient capacity evaluation, surrogate decision making, advance directives or advance care planning. While the importance of personal autonomy and such tools for respecting it are generally understood, the right to autonomy itself is questioned far less often. What are the philosophical justifications for ensuring that people make their own medical decisions? With so many aspects and complications regarding autonomy—decisional capacity issues, beneficent paternalism, etc.—why should we place so much significance on a patient being able to make their own decisions?

Respect for Persons

A clear influence is The Belmont Report (1979), and the Principle of Respect for Persons. It would be almost impossible to discuss the Principle of Autonomy, as it has come to be known, without understanding its connection to the Principle of Respect for Persons. The Belmont Report describes the principle as having two ethical convictions: “first, that individuals should be treated as autonomous agents, and second, that persons with diminished autonomy are entitled to protection.” The report furthers this argument stating:

The principle of respect for persons thus divides into two separate moral requirements: the requirement to acknowledge autonomy and the requirement to protect those with diminished autonomy. An autonomous person is an individual capable of deliberation about personal goals and of acting under the direction of such deliberation. To respect autonomy is to give weight to autonomous persons' considered opinions and choices while refraining from obstructing their actions unless they are clearly detrimental to others. To show lack of respect for an autonomous agent is to repudiate that person's considered judgments, to deny an individual the freedom to act on those considered judgments, or to withhold information necessary to make a considered judgment, when there are no compelling reasons to do so. (Belmont Report)

This means that patients are rational individuals and thus deserve to be treated with respect in our interactions with them. A means of demonstrating that respect is by honoring patients' ability to make medical decisions. All of this implies that the fundamental principle is respect, specifically, respecting others' ability to make their own decisions. The Principle of Autonomy, as an ethic principle, is thus

forged out of this respect, rather than being an ethical necessity in and of itself. In other words, the Principle of Autonomy is grounded in respect for others.

Respect for Rational Individuals

The Principle of Respect, philosophically, traces back to the work of Immanuel Kant. Central to Kant's moral theory was the idea that we are obligated to respect persons because persons have inherent dignity, which comes from being a rational creature. Or, as stated by interpreters of Kant:

Rational beings have the capacity to use reason in forming decisions, and act not only in accordance with reason, but also for the sake of reasons we believe are right (thus becoming a moral agent). According to Kant, it is the capacity to choose right from wrong, and the responsibility that follows from possession of such a capacity, that accords persons the Kantian sense of dignity that deserves respect. As free and autonomous beings, we become responsible for our actions in ways that non-rational creatures cannot be.” ([Yale, Human Subjects Protection](#)).

Because rational individuals are capable of making autonomous decisions, they should be respected for making such decisions.

Balancing Act

It is the balancing of individual autonomy and respect for others that is ethically challenging during the COVID-19 pandemic. However, the right for an individual to make their own medical decisions *is itself maintained* by a mutual understanding of respect towards others as rational creatures. In other words, for a person to *maintain* the right to make autonomous decisions, it is necessary that respect be applied across the board.

One further application of the Principle of Respect is toward persons in society. The Principle of Respect for personal autonomy applies especially to patient care. In public health, this principle is one that prioritizes groups of persons, populations, over the rights of individuals comprising society. The tension we are experiencing currently in debates about vaccination mandates is one that is grounded in the Principle of Respect for persons. When applied to individuals, the principle states we ought to respect a person's ability to make their own medical decisions. When applied to society, however, the principle underscores our moral obligation to respect *everyone*, and this moral duty has clear implications for whether individuals should get vaccinated.
