

# Mandatory vaccination: an ethical obligation

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# Prevention of harm & equitable principles

- The less burdensome it is for an individual to do something to prevent harm to others & the greater the harm prevented, the stronger the ethical reason for mandating = prevention of harm principle (PoHP)
- John Stuart Mill: the state can legitimately interfere with individual liberty only in order to prevent harm to others, including when harm can be caused by inaction (as is the case with non-vaccination, for instance).
- AND: Each person should bear 'his share of the labours and sacrifices incurred for defending the society from injury' = equitable principle (EP)
- PoHP may legitimise state intervention, but when the harm is collective, it needs further justification (eg by the EP) **in order to determine one's fair share of labours and sacrifices needed to prevent that harm**

# Legal framework

- Constitution of the Republic of South Africa (1996)
- Right to an environment that is not harmful to health or well-being
- Right to bodily and psychological integrity which includes the right to security in and control over their body
- Right to freedom of conscience, religion, thought, belief and opinion
- Not absolute rights & may be limited. How?
  - By means of a law of general application (applies nationally and to everyone)

# Constitutional threshold

- ‘reasonable and justifiable’ - rational, proportional and the least restrictive means of achieving its objective
  - must be based on scientific evidence & protect against death & severe disease
  - decrease onward transmission of the virus
  - reduce the risk of ongoing mutations
  - relieve the pressures on ICUs
  - reduce the number of lockdowns required to curb the spread of the virus
  - (Lockdowns: contracting of the economy, unacceptably high unemployment rates; and the loss of income in many sectors, infringement on many rights of persons, such as the freedom of movement and association.)
  - Unlike mandatory vaccination, lockdown entails very large individual and societal costs.
  - *It is inconsistent and illogical to accept mandatory lockdown but reject mandatory vaccination.*
  - Mandatory vaccination can achieve a much greater good at a much smaller cost.
- Importance of the purpose of the limitation (must outweigh the interests protected by the rights)
- Is the limitation the least restrictive way to achieve the objective (protection of the public?)

# Further considerations justifying mandatory Covid vaccination

- Reduces risk of seriously harming or killing others
- Benefits from vaccination come at a very minimal cost to individuals
- Ensures that the risks and burdens of reaching herd immunity are distributed evenly across the population.
- Because herd immunity benefits society collectively, it's only fair that the responsibility of reaching it is shared evenly among society's individual members
- The higher the uptake of vaccines, the lower the risk of falling below the herd immunity threshold at a later time - we should do everything we can to prevent that emergency from happening – especially when the cost of doing so is low
- Examples from other contexts, is the legal requirement to wear a seat-belt. Mandatory seat-belt wearing comes at a very small cost, but are highly effective in reducing deaths from car accidents. I know what you think – wearing a seatbelt is not the same as subjecting yourself to a vaccination, but the principle behind the legal requirement = the same

# Analogy of taxation

- Taxation is a clear example of the EP. Each individual is required by the state to pay their fair share of taxes
- Taxes serve a **public and socially valuable good** and is both a moral and legal duty for individuals collectively:
  - Small cost to individuals
  - Prevents harm to the community/collective; benefits the collective
  - Fairness & equity require that the burdens of a collective responsibility are fairly distributed among the individual members of the morally responsible collective

# Herd immunity is a 'public good'

- No one is excluded from benefiting from the good (protection of collective)
- One person benefiting does not diminish the extent to which other people would benefit as well
- Because vaccines are typically not 100% effective, even a vaccinated individual might benefit from herd immunity to gain protection from infectious diseases
- Many benefits of herd immunity are indirect and are enjoyed also by those who are effectively immunized
- It promotes other important public goods that are essential to the upkeep and survival of society, such as a reduced burden on a public health system; political stability and national security, which in extreme cases could be compromised by infectious disease outbreaks

# But: the problem of the 'free-riders'

- Non-excludability of a good like herd immunity leads to a free-riding problem
- Many act in their own self-interest and compromise the good & the requirement of fairness, e.g. the requirement to make a fair contribution the fulfilment of a collective obligation to preserve an important public good of herd immunity
- Vaccine refusal is analogous to tax evasion - in both cases an individual fails to make her fair contribution to socially valuable goods
- Cost of vaccination vis-à-vis taxation actually smaller!
- Justifiably excluded from mandatory vaccination: vulnerable individuals for whom vaccination is medically contraindicated

# Conclusion

- Mandatory vaccination is a moral and legal duty to prevent harm on **individual AND a collective level**
- Individually it can prevent infecting oneself and others
- Collectively it allows achieving herd immunity; harm prevention and benefit to others
- We have a collective moral responsibility to realise herd immunity
- Equity and fairness require that the burdens of the collective responsibility to realise herd immunity **be fairly shared/divided among the individual members of the morally responsible collective**
- Fairness and equity require others not to free-ride on herd immunity and/or a requirement to make one's fair contribution to the fulfilment of a collective responsibility

# Conclusion (cont.)

- In addition:
- Principles of ubuntu, equity, fairness, solidarity, effectiveness, efficiency, proportionality and transparency NB
- Mandatory vaccination will save lives
- Assist us in using limited resources efficiently
- Finally, will assist in creating social cohesion in the public interest and building public trust, which our democracy requires of us as responsible citizens

**THANK YOU!**