

State Mandated Vaccination Laws: A Worthy Sacrifice of Individual Liberty

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Introduction

The California Immunization Record contains a chart of over thirty shots for at least ten different vaccinations. The public has little idea of what most of the acronyms that run along the side of the yellow card stand for, let alone what they protect us from. But somehow, for the sake of our survivability as a civilization, there must exist a proper means of ensuring high immunization rates—we *need* this very card. Historically, states have adopted compulsory laws to simplify the process, but in recent years this method has become problematic. The effectiveness of the program, and even the necessity of the vaccinations themselves are being called into question by modern anti-vaccination movements.

The state mandate is, after all, an encroachment on individual rights, as citizens are practically stripped of their freedom of choice to vaccinate if they would like to take advantage of certain civil services and benefits such as access to public education. On the other hand, present day standards of personal hygiene and public cleanliness are not the only contributing factors to the absence of infectious disease. Vaccinations have been the driving force in eradicating such diseases from the world. There is a trade-off that citizens implicitly make with the State: citizens surrender a portion of their individual rights to the government, so that the government can carry out its duty of protecting the people's wellbeing and safety. However, most people never actively

agreed to such a deal with the government—at least not on an individual basis. So the question arises, to what extent, if any, is the State’s infringement on individual rights by way of vaccination laws justified by their public health benefits? In other words, is there a way to rationalize the aforementioned exchange in a legally and ethically sound manner?

This article seeks to examine both sides of this debate, ultimately arriving at the conclusion that the individual sacrifices involved in mandatory vaccination programs are well warranted. Given the program’s proven legality in a handful of landmark US Supreme Court cases, and considering that its benefits greatly outweigh any harm it presents, the State has a duty to step in and compromise people’s individual rights in order to act in the best interest of children by way of mandatory vaccination laws. Furthermore, the community has a duty to protect those children who are unable to be vaccinated for reasons beyond their control. By cooperating with the laws to the best of their ability, they can help to create a shield of herd immunity—those who choose not to comply greatly increase the risk of contraction for the immunocompromised. Exemptions, therefore, ought to be limited to medical ones. Additionally, the program’s fiscal benefits and cost-effectiveness make it an even more obvious choice, especially when one considers the rising costs of healthcare and the current condition of the American economy.

Background

History

The first vaccination law was passed in 1806 in Piombino and Lucca, then Napoleonic territories which are located in present-day Italy. A law was passed requiring the administration of the smallpox vaccine, which provided immunity against the vicious disease that had claimed lives on every inhabited continent for thousands of years (Salmon, 436). Across the Atlantic, three years later in 1809, a similar law became the first of its kind in the United States. Massachusetts turned it into law that all of its citizens were required to receive the vaccination (Omer, 1981). Other European countries followed suit, passing legislation requiring all citizens to receive the vaccine. The degree of enforcement, the availability of exemptions, and the consequences of not complying varied by country, but one thing was quite apparent across the board: those countries with the strictest enforcement rules also faced the strongest anti-vaccination movements.

Framing the Anti-Vaccination Law Movement

Why, it begs the question, would anyone make such a foolish decision, to pass on an opportunity to immunize themselves to lethal infectious disease? In order to gain a deeper appreciation for the absolute validity of mandatory vaccination laws, it is necessary to frame the opposition from a psychosocial point of view. This way, one can attain a look into the essence of their movement, ultimately understanding that it is one that is inherently flawed, as our sacrifice of individual liberties is so minute relative to the benefits we reap. When one examines the possible reasoning behind this particular behavior of parents all across the nation, it becomes apparent that ironically enough, the very phenomenal successes of such vaccination programs have resulted in a society which is free of infectious disease, and consequently has no recollection of the destructiveness of polio and measles among other illnesses, making it difficult to appreciate the benefits of vaccination programs (Diekema, 1428). Lower rates of vaccine-preventable diseases have led to mass flawed risk calculus; the opposition contends that the severity of the diseases and our vulnerability to them have changed, while they have actually not changed at all (Omer, 1981).

In addition to this flawed risk perception exists a faulty concept of responsibility for the protection of children which many parents adhere to. Many parents feel directly responsible for the pain caused by the needle, whereas they perceive the risks of contracting an infectious disease as “natural” (Dawson, 1030). Unfortunately, these parents do not see the flaw in their way of thinking. Parents ought to feel responsible for any harm brought upon their children, whether it is done actively or passively. Lack of action is just as detrimental and dangerous as is negative action; and parents’ failure to see this fact is symptomatic of a society which has largely conquered infectious disease—generations which have not cast their eyes upon the grotesque misery of the flesh-disfiguring smallpox virus. An examination of the arguments made by opponents of the laws points to these underlying psychosocial trends, and it is important to understand their arguments so that one can truly appreciate how essential it is that the mandatory vaccination programs continue to be enforced.

Analysis of the Anti-Vaccination Law Position

The anti-vaccination law movement has proliferated greatly throughout the United States in recent years via the Internet and other social and electronic media. While in this respect it feels like a new campaign, the arguments they make are the same ones that have been made and refuted time and time again since the very first regulations passed in 1805. Perhaps the most popular argument made across Europe, where laws like these ceased to exist decades if not centuries ago, is that the risk presented by infectious disease is so insignificant, that there is no need to force people to get vaccinated any longer. The overall chances of contracting a disease, they argue, has been greatly reduced due to the actions of those who voluntarily vaccinate. If, therefore, a small portion of parents chooses not to vaccinate their children, the risk levels will not see a material gain. The only time they believe compulsory vaccination laws are appropriate is when population immunity has fallen substantially lower than it is now, and risk levels rise (Bradley, 330).

Although this position is mainstream in most European countries and is one of the American anti-vaccination law movement’s most commonly voiced positions, it is one which favors active incurring of additional risk that can easily be prevented. There is no reason to take a chance as dangerous as this one, especially when it can easily be avoided. Such a way of thinking could easily lead parents in growing numbers to refuse vaccinating their children, which over time will lead to very low immunization levels, at which point the havoc of a possible outbreak becomes uncontrollable. It is far easier to control a small portion of the population who has not been immunized for certain medically approved and well recorded reasons, than to wait until immunization rates are so low that the risk of a breakout is high, and we near the brink of reintroducing infectious disease into the First World. Most reports of vaccine-preventable disease (VPD) outbreaks, such as the 1996 measles outbreak in Utah, are recorded to have originated from individuals who acquired non-medical exemptions from vaccinating. Digging the hole even deeper, such “exemptors” tend to live in clusters in certain areas, making the risk of outbreak substantially greater than if they were scattered and diluted amongst the vaccinated. It is therefore apparent that one cannot rely on high population immunization rates as a personal shield, as the anti-vaccination law supporters argue (Salmon, 51).

Perhaps the most enticing argument against compulsory vaccination laws in a country whose citizens are as concerned with issues of freedom, liberty, and equality as ours, is that the program

infringes on our individual rights. Forcing the people to get vaccinated strips them of their freedom of choice to refuse, and in this sense, argues the opposition, vaccination laws are both unfair and unethical. Some even try to scare the public by painting the picture of a slippery slope towards a totalitarian state that rules over our lives! Besides for the fact that the eventual ending of this argument is a mere scare tactic, from an ethical point of view, further examination of a society both with and without vaccination laws makes it clear that only with compulsory legislation can we ensure absolute equality. If all members of a society are bound by the same set of laws, and they all share in their risks and benefits, then equality can be ensured. If, however, only some people accept the risk, while others reap the benefits indirectly by taking advantage of herd immunity, then those who vaccinate are being taken advantage of (Diekema, 1429). Statewide vaccination laws ensure the prevention of abuse by “free riders,” and protect social equity amongst all members of society, across racial and financial lines. One therefore clearly sees that the anti-vaccination movement’s accusations that immunization laws are unjust are baseless, and their plan only opens more doors for unethical practices. The aforementioned sacrifice of individual rights is made up for with an assurance of widespread equality. All in all, the movement’s arguments are flawed, and only serve as desperate efforts to unite the public, firing them up with words such as “freedom” and “individual rights,” without providing them with much else information.

Proper Policy

In order for challenges to the vaccination laws to be stopped at principal and ethical arguments and not be able to go any further, we must establish a firm legality to the compulsory vaccination laws. In 1905 the Supreme Court affirmed the right of states to require vaccination as an arm of their Police Power in the landmark case, *Jacobson v. Massachusetts*. This case has served as the foundation for public health laws for over a hundred years. The Supreme Court made it clear that the trade-off that is in question is one which is legally acceptable, and binding. Therefore, as citizens of this country, it is not only our responsibility to be vaccinated, but also our duty as a matter of law. This reality is one that is often forgotten by the opposition, and is also one that highlights that the State’s infringement on individual rights by way of vaccination laws is fully reasonable and legal.

As with any trade-off, though, before just forcing people to accept one side due to a Supreme Court decision mandating it, it is important to weigh the pros and cons of each alternative—a risk-benefit analysis is quite informative. The decision to keep and enforce vaccination laws becomes clear, when one understands how heavily the benefits of the program outweigh its risks. Every year, vaccinations prevent an estimated 2.5-3 million deaths globally. The only harm that could arise from getting a vaccination, on the other hand, is the pain from the needle itself, and the occasional bad reaction to the contents of the vaccine, which can be easily treated, as vaccines only contain a weakened version of the pathogen or just a single component of its structure (Dawson, 1030). Historically, vaccination programs have been successful in eliminating the smallpox virus worldwide, driving polio out of the Western world, and making tetanus, diphtheria, measles, and other infectious diseases quite rare. On the other hand stands the risk of contracting such terrible diseases. Even in a community with high immunization rates, an unimmunized individual’s risk of contracting a vaccine-preventable disease is far greater than the risks associated with immunization (Diekema, 1429). When one compares the benefits reaped and the

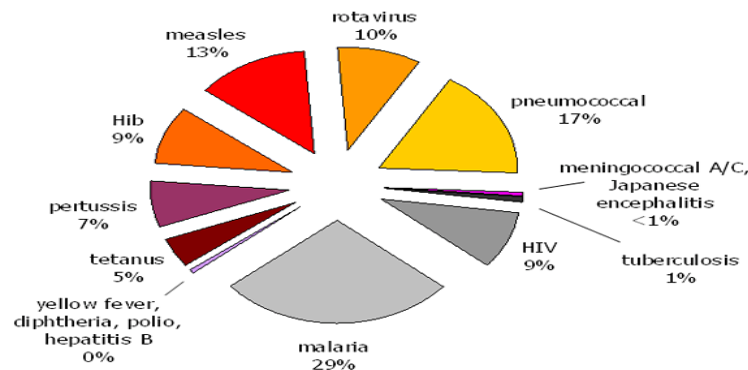
risks incurred by each side of this debate, it could not be clearer that mandatory vaccination laws as enforced by the State are well worth the sacrifice of individual rights we each make.

As with any other piece of American legislation, one of the most important deciding factors in its approval and success is its fiscal impact. While it is certainly costly, compulsory vaccination is the most cost-effective option. Prevention of infectious disease is significantly cheaper than controlling outbreaks; the community, state, and country all save money as a result of vaccination (Dawson, 1031). Furthermore, increased rates of immunization in a population help to drive down risk factors in insurance companies' calculations, thereby lowering the cost of healthcare for all of us (Diekema, 1429). As studies conducted overseas in the United Kingdom have pointed out, when one considers the high rates of immunization and low outbreak incidence in the US, our mandatory vaccination laws are among the most cost-effective public health interventions of all time (Salmon, 780). Ideally, money should not be an issue in matters that involve human lives like this one, but as with any other decision that is made in politics, it is always important to establish the fiscal feasibility of a piece of legislation. Compulsory vaccination laws are the most economically responsible option, as they provide the most widespread benefits to the most people at minimal cost to every party involved.

What Can Be Done

The reality of this debate is that it is unfortunate that some people find it necessary to protest such constructive and healthy pieces of legislation. When the government and doctors step forward and offer the public with a near assurance that they will never have to worry about contracting an infectious disease, or even paying for the vaccination, it is a wonder that anybody would turn down this offer. Surely, not a single person would refuse an antidote to the poison *after* they contract it, so why not do so before, and open the window of possibility for disease? Knowing that this is the case, it is necessary for us to have a plan in mind for addressing this issue in the future. The first, and perhaps the most influential character in all of this is not the policymaker, but the doctor. Changing the heart of the opponents of vaccination laws will not come by the hands of legislators rallying by the thousands; it will come from the interactions of a single doctor and a single patient.

About 40% of all under five annual child deaths are due to these causes. Approximately 60% of these deaths — all except those from malaria, HIV and tuberculosis — are preventable through immunization with existing and newly developed vaccines such as pneumococcal and rotavirus.



Source: World Health Report 2004; data are the latest available (2002); 10.6 million total annual deaths in children under age five.

The role of the physician in all of this is clear—doctors must provide parents who refuse to vaccinate their children with information on the risks and benefits of immunizing, in order to keep them educated so that they can make informed decisions. They must make an effort to correct misconceptions and misinformation, and to work on the relationship so patients can one day grow to fully trust their doctor. No law, no matter how strict, can be successful without the proper amount of enforcement. The State can only do so much—public schools can refuse admittance, but there is not much more the government can do on the individual level. I would advise doctors to develop a strong and trusting relationship with parents by listening to their concerns, showing them genuine care and understanding; to educate parents about the incredible benefits of each specific vaccination as opposed to the overwhelming risks of not vaccinating; and to document these interactions with parents in order to protect themselves from liability. Asking patients to go elsewhere in order to avoid liabilities is selfish and inconsiderate, moreover, damaging to your own cause. Parents can simply find a doctor who is more liberal minded and careless. Parents may be opposed to the idea of liberty-stripping vaccination laws, but perhaps when told that they are saving their child from the paralyzing poliovirus, they will reconsider.

Conclusion

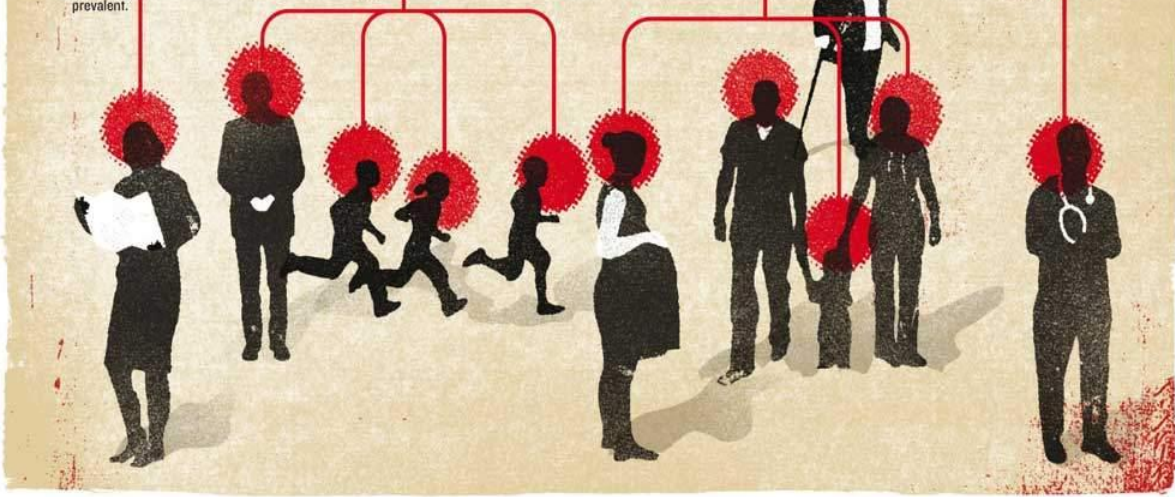
The history of anti-vaccination law activism dates back to the very decade in which the first of such laws were enacted, in the early 1800s. The movement today is the very same wolf in sheep's clothing—protesting to uphold individual rights and the liberty of choice, while also silently driving up the risks of mass outbreaks of infectious disease into a society that has worked for years to achieve the feat of eradication of these pathogens. More and more parents today are refusing to have their children vaccinated, citing arguments that are all inherently flawed, and do not represent the situation in our country practically and honestly. True, each and every one of us, whether we like it or not, is making a small sacrifice of our freedom of choice in submitting to this program—but there could not be a more worthwhile infringement on individual rights by the State than this one. It has been proven legal in the court of law on numerous occasions. Mandatory vaccination laws have saved millions of lives each year, and the risks the vaccines themselves present is immaterial with respect to the risks of not vaccinating. Unfortunately, this is not enough to sway some parents, and we have no other choice than to defy the word of parents in order to act in the best interest of their children. These laws provide a means by which a doctor can do so. Further, they provide a means of providing protection for those whose bodies are not strong enough to handle immunization. Herd immunity is their only defense, and we have a duty to ensure that every last person who can be vaccinated is vaccinated, driving risk levels as low down as possible. As one of history's best public health policy interventions, mandatory vaccination laws have also proven to be the most economically responsible epidemiological law we have ever enacted. They prevent the hemorrhaging of cash that would be necessary in order to suppress and shut down a rapidly spreading outbreak, and replace it with a reasonable allocation of State and healthcare funds at zero profit for any party involved. Beyond a reasonable doubt, it is clear that mandatory vaccination laws are one of the most important interventions made by the State into civilian life, and we, as their beneficiaries, are fortunate enough to live in a country that has them.

Travelers can bring diseases like measles into the U.S. from other parts of the world where they're still prevalent.

The more unvaccinated kids or adults within a community, the easier it is for these diseases to spread.

People who are unable to get vaccinated or whose immune systems are compromised are left vulnerable and exposed.

Some pediatricians are even refusing to care for families who won't vaccinate, to protect their other patients.



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