

# Ethics on Compulsion of Vaccinations in the Age of COVID-19

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## Keywords

Comparative analysis · Jewish ethics · Compulsion of vaccinations · COVID-19

## Abstract

The COVID-19 pandemic broke out at the end of 2019 and throughout 2020 there were intensive international efforts to find a vaccine for the disease, which has already led to the deaths of a few million people. In December 2020, several pharmaceutical companies announced that they had succeeded in producing effective vaccines and after approval by the various regulatory bodies, countries started to vaccinate their citizens. With the start of the global campaign to vaccinate the world's population against COVID-19, there was a strong renewal of the debate about the possibility of enforcing vaccination, either directly or indirectly, in particular on account of the rapid spread of the pandemic. This article presents the stand that Jewish ethics takes on this issue. According to the norms of Jewish ethics, a moral person has an obligation toward his fellows and G-d to be vaccinated. Notwithstanding the importance of vaccination, Jewish ethics does not allow direct coercion but recognizes that someone who does not get vaccinated presents a danger to the public and so can be prevented from circulating freely. Thus, Jewish ethics permits indirect compulsion by keeping chil-

dren and adults who are not vaccinated away from educational institutions and public places, respectively. Only occasionally and in special circumstances would it be permitted to resort to shaming of a person who refuses to be vaccinated and only if he/she is deemed a particular danger to the public health.

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## Introduction

Vaccinating the population, which is a preventive medical service that a country owes its citizens, is based on the recommendations of professionals and health authorities around the world regularly vaccinate the residents of their countries against dangerous infectious diseases. The basket of vaccinations is updated from time to time according to need. In most states in the USA and in developed countries around the world, the obligation to be vaccinated is grounded in law and is a precondition for a child to be admitted to a state school, unless a parent declares having religious reservations or health reasons preclude it [1].

Vaccination is one of the most important public health advances of the last century [2]. The medical community considers it one of its major achievements, as it has pre-

vented the spread of deadly diseases in an effective and efficient manner. Traditionally, whereas the major religions have supported vaccination [3], there have always been religious objections to vaccination among minor sects within Christianity, Judaism, and other faiths [4]. However, at least one recent study suggests that there has been a recent increase in vaccine exemptions on religious grounds across the board in both private religious and public secular schools [5].

In recent years, more and more religious communities have been refusing to vaccinate their children, so although the incidence of measles has decreased drastically around the world, today's vaccine hesitancy might well cause an epidemic. These communities justify their resistance to inoculation on various religious grounds and make common cause with secular groups who oppose vaccination for their own reasons. Vaccine hesitancy has been identified by the World Health Organization as one of the top ten global health threats of 2019 [6].

The COVID-19 pandemic has affected tens of millions of people and caused the death of over 3 million. The pandemic apparently erupted in December 2019 in the city of Wuhan in China and by the middle of February 2020 had started to spread, causing panic, which was soon followed by economic crises around the world. In December 2020, the Moderna and Pfizer drug companies announced they had succeeded in producing vaccines against COVID-19 and received approvals to distribute the vaccines from various regulators including the FDA in the USA and the European EMA. A mass vaccination effort began in many countries around the world, while in the background the question whether, in view of the scope and severity of the pandemic, it is possible to directly or indirectly compel an individual to accept administration of the COVID-19 vaccine to one who has refused it [7].

### Arguments for and against Vaccination

In mid-2020s, estimates from two surveys indicated that 67 or 80% of people in the USA would accept a vaccination against COVID-19, with wide disparity by education level, employment status, race, and geography [8]. Thus, even if highly effective vaccines are distributed worldwide, as long as there are people who are not vaccinated, the virus is likely to mutate and infect individuals, which will be a potential danger even for people who have been vaccinated or remain dormant and spread again after the effect of the vaccination has worn off. Furthermore, even if the vaccine is 95% effective, this means

that 5% of those vaccinated might be infected. Primarily, when discussing compulsion in medical treatment, the clashing values are a person's autonomy, that is, his right to decide what to do and not to do in regard to his own body – and the sanctity of life [9]; however, an individual who does not agree to be vaccinated endangers the public, so the obligation to refrain from harming others that has to be added into the equation [10].

On the one hand, making vaccinations obligatory – whether indirectly through reducing allowances or preventing entry to the educational system, or directly through making refusal a criminal act or even physical coercion – violates a person's right to act according to the principles in which he believes. Clearly compelling vaccination would be mandated in order to protect the public, but when the number of non-vaccinated individuals is minimal compared to the total population, the risk to the public is not necessarily significant. On the other hand, it may be that there is no justification for creating risks that might lead to significant, possibly fatal, harm even when there is a low risk. Further, it might be necessary to preclude a situation in which complete populations are not vaccinated, as that is likely lead to a much more dangerous situation. An additional argument is that some people will not feel a need to get vaccinated because the people they associate with have been immunized, so that they themselves are subject to only a minimal risk.

Personal autonomy is an important principle in the context of vaccination. In general, vaccination is a safe and effective way to protect individuals from infectious diseases and to prevent the spread of disease in the community. However, some people have personal, philosophical, or religious objections to vaccination and insist on exercising their right to personal autonomy by refusing vaccination.

Personal autonomy in the context of vaccine mandates is a particularly thorny issue in connection with the education system, as such mandates require that students be vaccinated in order to be allowed to attend school. Some states have laws that demand certain vaccines for school attendance, whereas others allow exemptions for medical, philosophical, or religious reasons.

The right to personal autonomy is not absolute, however, and may be limited in certain circumstances. For example, in the event of a public health emergency, a state may have the authority to impose vaccine mandates in order to protect the broader community. Similarly, schools may have the authority to exclude students who are not vaccinated in order to protect the health and safety of other students and staff.

Respecting personal autonomy and involving individuals with issues in decision-making about vaccination are effective in promoting adherence to vaccine recommendations. Further, educators and public health officials should provide students and their families with accurate and up-to-date information about the benefits and risks of vaccination and support them in making informed decisions about vaccination. Personal autonomy is a key principle in the context of mandated vaccination particularly in schools, but it must be balanced with the need to protect the health and safety of the broader community. This article presents a comparative study dealing with the way various countries relate to indirectly forcing people to accept vaccination by exclusion those who are not vaccinated from the educational system and suggests balancing according to the Jewish ethics points of view.

### **Keeping Someone Who Is Not Vaccinated out of the Educational System – Comparative Review**

The exclusion of those who are not vaccinated from the public sphere has immediate and systemic significance when it comes to discussing the issue of excluding children who have not been vaccinated from the educational system. The prohibition against admitting them has been debated worldwide in recent years and varies from country to country.

As part of indirect compulsion for vaccination, should it be permitted to keep a child who has not been vaccinated from attending kindergarten or school in order to keep the risk of infection away from their friends? This issue has come up in particular situations, and resolution has been achieved in large part owing to several different factors: the balance between the nature of the danger expected from a particular child and the scale and degree of risk of infection from him, as compared to the danger likely to be caused to the child by preventing his attending school.

According to the CDC, the national vaccination program in the USA is set by the Advisory Committee on Immunization Practices. The CDC monitors vaccination rates against this program; however, determining the obligation to vaccinate children in school is the under the authority of the states, that is, it is not mandated at the federal level. According to a CDC publication from February 2017, all 50 states and the District of Columbia have legislation stipulating the obligation of vaccination as a precondition for attending public schools. In 46 states and the District of Columbia, there is legislation stipulat-

ing the same obligation in regard to private schools. Similarly, in all 50 states and the District of Columbia, there is legislation stipulating the obligation of vaccination as a condition for attending day care facilities [11]. That is, students' personal autonomy is subject to changing legal restrictions that impose conditions on their entry into the American education system.

The data about European countries presented below is based mainly on a 2018 report prepared for the European Commission, which examines the organization and provision of vaccinations within the European Union [12]. This report notes that out of 28 countries, 9 have legislation requiring the vaccination of all children (and at least in some cases there is an obligation to vaccinate adults): Bulgaria, Croatia, the Czech Republic, France, Hungary, Italy, Poland, Slovakia, and Slovenia. The European Charter on Human Rights and Fundamental Freedom includes the right to life, freedom of conscience, religion, and thoughts, among others. In these European countries students' personal autonomy is limited in terms of their right of access to the education system. In the 19 other countries, vaccination is voluntary and personal autonomy prevails in that parents can decide whether or not to have their children vaccinated without fear of their being denied access to the education system. However, the writers of the report added that this definition is not always clear since in certain countries, for example, Germany, Greece, and Cyprus, even though there is no obligation to vaccinate in law, in order to register children in schools and kindergartens the parents must present evidence that they have been vaccinated [12]. A special angle of the attitude to indirect enforcement of the exclusion of those who are not vaccinated from the education system can be found in Jewish ethics.

### **Jewish Indirect Compulsion in the Case of COVID-19 Vaccinations**

Regarding compulsion in the case of the new COVID-19 vaccinations, Rabbi Yuval Cherlow (1957–), a Modern Orthodox rabbi and one of the founders of Tzohar, an organization of religious Zionist Orthodox rabbis in Israel, who has served as a member of the Helsinki Committee for the Approval of Clinical Trials on Humans and the Israeli Committee for the Selection of Fetus Gender, has written extensively about professional ethics in general and medical ethics in particular.

In an interview, Rabbi Cherlow stated, "If someone who does not get vaccinated endangers the public, then it

is certainly permitted for the community to protect itself from individuals who are not vaccinated; however, a person also has rights not to introduce into his body anything that he believes will harm him. I believe that of all the medical procedures, vaccinations are the most significant revolution in the world of medicine, but the system cannot compel everything.” Thus, Rabbi Cherlow is of the opinion that “We do not compel, but we can apply limits; someone who does not get vaccinated may not come to a place where there is a considerable risk of infection. This is also the moral responsibility of that person” [13].

This sort of indirect compulsion is also discussed in the context of Jewish ethics. From certain sources, one can infer the position of Jewish ethics on this issue. In earlier times, it was believed that biblical leprosy (*tsara'at*) was an infectious disease. Therefore, the Bible mandated distancing from someone suffering from leprosy, forcing such an individual to leave his home ground; in the words of the Bible: “They must live alone; they must live outside the camp” [14]. In his commentary on the five books of Moses, Rabbi Moshe Ben Nachman (Nachmanides; Spain – Land of Israel, 13th century), a rabbi and a doctor, saw this exiling not just a punishment but also a way of preventing harm to others. Testimony that this distancing was practiced is found as early as in Scripture in the story of the four lepers [15], who, at the time of the siege of Samaria, who were not permitted to enter the town and sat outside the gate. A hint of this type of distancing is also found in the Mishnah, written in the 2nd century CE, which rules that if a leper is to enter a synagogue, a screen ten *tefachim* high and four *amot* wide must be set up, and the leper must enter first and leave last [16].

Rabbi Chaim Falaji (1787–1868), one of the leading rabbis in Izmir, Turkey, was a halachic arbiter, a commentator, and a kabbalist. In his book *Nishmat Kol Chai* [17], he wrote that at the beginning of his career, he was asked about a doctor who was treating the sick during an epidemic wanting to come to the synagogue. The other members of the community did not allow him to enter because they were afraid that contact with him would make them ill. Rabbi Falaji noted that he had supported the members of the congregation and had ruled that the doctor was not to be admitted [18]. In our days, too, rabbis of different streams within Judaism have discussed the notion of preventing a child who has not been vaccinated from going to a school, as part of the concern for public health [19].

Rabbi Asher Weiss (Israel, 1953–), a rabbi of the Sanz Chassidic sect and the chaplain of Shaare Zedek Hospital in Jerusalem, who is one of the most important contem-

porary rabbis in and the city has ruled that one is obliged to vaccinate one's children for two reasons. Rabbi Weiss's first reason reminds us of Kant's categorical imperative, but without calling it by name, he formulates the idea as a religious ideal. Kant, as is well known, ruled regarding the categorical imperative: “Act only according to that maxim whereby you can, at the same time, will that it should become a universal law” ([Kant, 1992], p. 30). According to Rabbi Weiss, any act if carried out by many will lead to harm and injustice, and even if no harm or injustice happens to the individual performing this act, he is nonetheless forbidden to engage in it. In other words, an individual is prohibited from doing what is forbidden for the many. Rabbi Weiss calls someone who engages in such a forbidden act “a scoundrel within the bounds of the Torah,” basing this principle on the Talmud.

In Treatise Sanhedrin 109B, the Talmud describes the behavior in Sodom and the occasion when someone came to the town market to sell garlic and onions, and every passerby took just one item, saying: “I took just one,” thereby impoverishing the seller. Rashi explained that each one said, “I only took something small,” but the end result was that together they stole everything the seller had.

From this source, Rabbi Weiss infers the principle that if something done by many involves evil and sin, then it is forbidden for an individual to do it. The same applies in the present case, in that it is only because most people vaccinate their children, which hurts and may endanger them, that the minority can refrain from the vaccination, but the more people who do not have their children vaccinated the more the danger will increase. Clearly, then, if most people refuse inoculation, we will revert to the status quo ante and return to the Middle Ages and hundreds of thousands will die of severe illnesses, so the obligation to vaccinate applies to everyone. As of today, we have to face the fact that many are refusing vaccination and may have been or are infected with measles.

Rabbi Weiss's second reason is that the obligation to vaccinate can be derived from another law – the obligation of all residents of a town to participate in protecting their town and repairing its walls. The law stated in the Babylonian Talmud Treatise Baba Batra (8A) and ruled as halakhah in the *Shulkhan Arukh* (Choshen Mishpat section 163) obliges all the residents of the town to participate in the costs of guarding or doing the actual guarding. This in spite of the fact that it is clear that if one avoids guard duty or refuses to pay his share, the walls will not collapse, and the enemy will not enter the town. Nonetheless, the obligation of guarding applies to everyone equal-

ly and one is not allowed to evade doing it. This applies as well in the present case, because regarding everything that benefits society or is a public obligation, all are partners, and every person must contribute his share equally. There is no differentiation between a monetary obligation and the obligation to vaccinate, which are both governed by the same law. Since it is possible to compel the town's inhabitants to bear the costs involved in building the wall and funding security, it is also possible to compel parents to have their children vaccinated before they start school. Similarly, just as it is possible to expel someone who is not prepared to pay the security fee from the town, so one can prevent the entry to school of an unvaccinated child, who is likely to bring down the children's "the defensive vaccination wall."

According to Rabbi Yitzchak Zilberstein, an expert in Jewish medical ethics (Bnei Brak, 1934–), the rabbi of a school "has full rights to deny entry to those [unvaccinated] children into the school until they receive the vaccinations" [20]. Rabbi Hershel Schachter (USA, 1941–; Rosh Yeshivah at Yeshiva University) ruled "that where vaccines are mandated by the state," such as in the case of immunizations before entering school, one would be obligated to be immunized based on the concept of "*Dina d'Malchuta Dina*" [the law of the land is the law] [21]. The Conservative Rabbi Joseph Prouser (USA, 1960–) ruled in 2005, with the consent of almost all the members of the Rabbinical Assembly's Committee on Jewish Law and Standards, that parents must vaccinate their children against infectious diseases unless a specific child has a medical problem that would preclude it and those unvaccinated children should be denied admission to Jewish day schools [22]. It is halakhically permissible for a school or a community to require that a child be vaccinated and that an unvaccinated child may not attend school.

## Conclusion

The requirement to preserve the health of both the individual and the community is not just a medical issue. Throughout history, beginning from the time of the Bible, the understanding has been formulated within Judaism that among an individual's religious obligations is the duty to look after his/her health and the health of the community, in both normal times and during emergencies. If normal times require looking after one's health, certainly during epidemics there is religious justification for society to take the measures necessary to protect the public health.

Although vaccination against infectious diseases, and in particular COVID-19, has been termed vital in preserving public health, according to Jewish ethics neither minors nor adults can be forced to accept vaccination. However, in order to observe the religious and moral commitment to public health, vaccination can be compelled in an indirect way by preventing those who have not been vaccinated from entering schools and public places.

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All the data appearing in this article can be read on the websites indicated and in the various bibliographic references.

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