

Does Libertarianism Provide a Justification for Vaccine Hesitancy?

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Abstract

Libertarian ideas of self-ownership and the priority of bodily autonomy have featured prominently in the political debate over vaccination programmes and the justifiability or otherwise of restricting the liberty of the unvaccinated. In this article we look at a selection of recent right-libertarian literature to show that there is a considerable divergence between the application of consistent libertarian principles to this issue by academic libertarians and the strident opposition to vaccination programmes and vaccine mandates expressed by people who profess to be libertarians in the public-political debate.

Keywords: libertarianism, vaccination, self-ownership, free-riding, non-aggression, expertise

ONE OF THE most notable features of public opposition to vaccination mandates during the Covid-19 pandemic is the way in which right-libertarian ideas have come to be associated with conspiracy theories and elements of the religious conservatism of the far right, especially in the United States.¹ Some of the apparent influence of libertarian ideas is the culmination of a long-term process in which very different interests and commitments have coalesced around vague identity-forming narratives. These narratives evoke an idealised and mythological past and link nebulous commitments to libertarian-sounding ideals of personal freedom, especially freedom from what is perceived to be excessive government control, with very specific

issues like gun ownership and resistance to vaccinations.²

The rhetorical association of freedom with patriotism and vaccine refusal is hard to capture in a set of explicit normative claims. However, there is a right-libertarian literature on vaccine mandates and public health that gives reasons for opposing vaccination programmes and other government-backed public health measures. Right-libertarianism asserts the absolute priority of a right of self-ownership and of bodily autonomy. Is that a consistent and sound basis for the claim that vaccination mandates or restrictions on the unvaccinated or even the promotion of vaccinations are violations of freedom?

Self-ownership is the fundamental idea at the heart of all versions of libertarianism.³

¹Some of these themes—suspicion of government and scientific authorities, a swirl of misinformation and conspiracy theories and a perception that public health measures amount to the unwarranted imposition of medical procedures without consent—can be detected in historical controversies around public opposition to government-led public health campaigns like water fluoridation in the US, the UK and elsewhere. See J. M. Armfield, 'When public action undermines public health: a critical examination of anti-fluoridationist literature', *Australia and New Zealand Health Policy*, vol. 4, no. 1, 2007; DOI: 10.1186/1743-8462-4-25 (accessed 18 April 2022).

²See D. Weinberg and J. Dawson, 'From anti-vaxxer moms to militia men: influence operations, narrative weaponization and the fracturing of American identity', *Brookings Institute*, October 2021; <https://www.brookings.edu/research/from-anti-vaxxer-moms-to-militia-men-influence-operations-narrative-weaponization-and-the-fracturing-of-american-identity/> (accessed 18 April 2022).

³For the quintessential contemporary expression of the idea of self-ownership, see R. Nozick, *Anarchy, State, and Utopia*, New York, Basic Books, 1974. For a thorough analysis and comprehensive rebuttal of the idea, see G. A. Cohen, *Self-Ownership, Freedom and Equality*, Cambridge, Cambridge University Press, 1995.

The idea of self-ownership has a long history, but the classical expression of it can be found in John Locke's *Second Treatise on Government*. Locke presents self-ownership as both a metaphysical and normative claim buttressed by a theological justification—with God as the ultimate owner of selves.⁴ Whereas that traditional Lockean line of thinking is still quite influential among the religiously inclined, contemporary libertarians reject metaphysical and religious justifications and present self-ownership as a normative relationship between oneself, one's actions and the physical space occupied by one's body.⁵

Robert Nozick is an influence on contemporary *academic* libertarians of both the right and left, but far more influential for contemporary right-libertarians in general has been the work of Murray Rothbard. His *For a New Liberty* of 1973 delivered a far simpler, more direct and considerably more forthright and unequivocal version of right-libertarianism than Nozick's abstract and qualified version.⁶ For Rothbard, there is a four-part basic framework to libertarianism: (1) an absolute right of self-ownership; (2) an unrestricted right to homestead (to make unowned things one's own private property); (3) an unrestricted right to exchange any kind of property and service with any other willing property owners; and (4) an absolute duty of non-aggression. According to Rothbard, everything else—morally and politically—follows from these principles and, since an interventionist state fundamentally violates these principles, anything more than a minimal state, according to Rothbard and his followers, is fundamentally immoral. (Indeed, for many of Rothbard's followers, *any* kind of state is fundamentally immoral.)

How does this position bear on requiring people to have vaccinations or restricting the freedom of the unvaccinated? It might appear that the involvement of the state in administering a vaccination programme represents the kind of infringement of individual liberty to

which a libertarian would object. That said, the costs of getting a vaccine are minimal for most people. Getting an injection is not much of an invasive procedure (a fear of needles notwithstanding), and getting a vaccine normally benefits oneself and others. People may have concerns about side-effects but, for all modern vaccines, the objective individual risks are very low and the individual and aggregate benefits are substantial. Few libertarians would deny that getting a vaccination is the rational thing to do. However, for libertarians, the fact that vaccination has small costs and big benefits does not translate into an obligation to get an injection: right-libertarians deny that people are under an obligation to advance either their own welfare or anyone else's. People are at liberty to advance the interest of others—or not to—just so long as they are not violating anyone else's self-ownership or property rights.

In answer to this it could be said that those who refuse to get vaccinated unjustly free-ride on the cooperative efforts of others. However, whereas most normative positions recognise free-riding as a failure of reciprocity and, for that reason, as an injustice, libertarians standardly deny that free-riding is unjust. Apart from the absolute duty of non-aggression, the only obligations recognised by libertarians are ones acquired by free and expressed consent. As far as libertarians are concerned, a person cannot simply be coerced into acquiring additional *moral* obligations and people do not acquire those moral obligations simply because other people decide to cooperate with each other, even if that cooperation produces beneficial side-effects for them. To be sure, those who voluntarily cooperate in a scheme can justly exclude non-cooperators from the benefits, but free-riding non-cooperators do not violate anyone's rights by enjoying those benefits.⁷ Free-riding is consistent with the Rothbardian principles of self-ownership, homesteading, free exchange of property and services, and non-aggression.

On the other hand, if not getting treatment puts other people in danger, then you may

⁴J. Locke, *Second Treatise of Government*, C. B. Macpherson, ed., Cambridge MA, Hackett Publishing, 1980.

⁵See, for example, C. Wolfe, *Natural Law Liberalism*, Cambridge, Cambridge University Press, 2006.

⁶M. Rothbard, *For a New Liberty*, Auburn AL, Mises Institute, 1973.

⁷See R. Nozick, *Anarchy, State, and Utopia*, New York, Basic Books, 1974, pp. 93–5 for the famous 'PA-System' and 'Book Thruster' counter examples to the principle of reciprocal fairness.

arguably be obliged on libertarian grounds to get that treatment. This is because knowingly omitting to make oneself less infectious may count as a kind of aggression akin to randomly firing a gun or carelessly swinging one's fists. Again, when some of the people at risk from the unvaccinated—doctors and nurses—have professional obligations to care for others, the unvaccinated put the professionally obligated into a kind of captivity where their occupational role forces them to face *greater* lethal risk than others who are at risk of harm from the unvaccinated.⁸

Does the threat to others presented by refusing the vaccine violate the Rothbardian non-aggression principle? It is this question that is the heart of recent academic libertarian work on vaccine mandates. If we look at recent literature at the academic end of US right-libertarianism we find that there is a good deal of disagreement. Some academic libertarians defend vaccine mandates and lockdown measures, some argue against, and some are rather equivocal. In 'The case against libertarian arguments for compulsory vaccination', Justin Bernstein attempts to show that vaccine refusal makes libertarian sense as opposition to state-introduced social welfare, and should not be classified as an act of aggression on the part of the vaccine-refuser.⁹ In 'A libertarian case for mandatory vaccination', on the other hand, Jason Brennan answers this charge by presenting a defence of vaccine mandates on the ground that to refuse a vaccine violates an enforceable moral duty to refrain from the collective imposition of an unjust risk of harm.¹⁰ A similar position is also broadly supported by Charlie T. Blunden in 'Libertarianism and collective action: is there a case for mandatory

vaccination?'.¹¹ Vaccine refusers, they say, violate the principle of non-aggression.

Despite these differences, all right-libertarians agree that it is an *empirical* matter whether a vaccine programme is unacceptable social welfare or a channel for acceptable non-aggression. Much will depend on whether the threat posed by the unvaccinated is genuinely equivalent to randomly firing a gun or carelessly swinging one's fists. This point is made by the highly influential American right-libertarian and self-professed defender of Rothbard's legacy, Walter E. Block, in 'A libertarian analysis of the COVID-19 pandemic'.¹² Block presents a rather equivocal position on vaccine mandates and lockdowns, characterising defenders and opponents of government public health measures as pro-intervention 'hawks' and anti-intervention 'doves' respectively. He rejects both views; his own position is what he terms 'agnosticism': whereas there are circumstances in which lockdowns and vaccine mandates are justified, libertarians are not sufficiently knowledgeable to assert that Covid-19 meets those conditions and so they ought to remain agnostic on whether the measures are justified. However, since libertarians *are* justified, according to Block, in being suspicious of the intentions and competence of the state, then they ought to be presumptively suspicious of the state's actions in dealing with Covid-19 in particular. Block presents this as the consistently Rothbardian position, but what that amounts to in practical terms is less than entirely clear.

One major difference between the right-libertarian academic debate and popular libertarianism is that the academic literature does not, by and large, cast doubt on medical or scientific expertise. Although Block's paper does express some sceptical-sounding opinions about the seriousness of Covid-19, he is at pains to point out that he is expressing personal judgements and not making claims on behalf of libertarianism.

⁸H. Draper and T. Sorell, 'Patients' responsibilities in medical ethics', *Bioethics*, vol. 16, no. 4, 2002, pp. 335–52; <https://doi.org/10.1111/1467-8519.00292> (accessed 18 April 2022).

⁹J. Bernstein, 'The case against libertarian arguments for compulsory vaccination', *Journal of Medical Ethics*, vol. 43, 2017, pp. 792–796; <https://jme.bmj.com/content/43/11/792> (accessed 9 March 2022).

¹⁰J. Brennan, 'A libertarian case for mandatory vaccination', *Journal of Medical Ethics*, vol. 44, 2018, pp. 37–43; <https://jme.bmj.com/content/44/1/37> (accessed 9 March 2022).

¹¹C. T. Blunden, 'Libertarianism and collective action: is there a case for mandatory vaccination?', *Journal of Medical Ethics*, vol. 45, 2019, pp.71–74; <https://jme.bmj.com/content/45/1/71> (accessed 9 March 2022).

¹²W. E. Block, 'A libertarian analysis of the COVID-19 pandemic', *Journal of Libertarian Studies*, vol. 24, 2020, pp. 206–237; https://cdn.mises.org/jls_24_1_block.pdf (accessed 9 March 2022).

This sets academic right-libertarianism apart from more strident forms of opposition to state mandated public health measures.

Popular versions of right-libertarianism are not nearly so cautious. The emphasis on self-ownership and bodily autonomy remains, but the non-aggression principle recedes: for example, the Libertarian Party of the United States presents the matter in terms of the absolute priority of self-ownership and bodily autonomy and it does this together with asserting doubts about the efficacy of public health measures and the seriousness of Covid-19.¹³ In doing so, the party makes claim to empirical and medical expertise in precisely the way that Block asserts is contrary to the principles of Rothbardian libertarianism.

The Libertarian Party has some influence in the public-political debate in America, but not as much as the group of Republican politicians who declared themselves libertarians as part of the Tea Party insurgency earlier in the 2000s. The positions taken by these people represent a mixture of libertarian-sounding views on individual freedom, together with other positions more characteristic of the traditional religious right. Senator Rand Paul, a vocal critic of lockdown measures and vaccine mandates, is an influential member of this group. Alongside libertarian-sounding objections to government vaccination programmes, Rand Paul appeals to standardly conservative positions, for instance, that vaccine mandates interfere with the traditional relationships between parents and children and between families and doctors.¹⁴

The way that these positions are combined in the pronouncements of Rand Paul and other people who identify themselves as Republican libertarians defy any simple categorisation. Conservative Republican commitments and libertarian principles are, on the face of it, impossible to reconcile as part of a coherent

set of principles: for example, the fundamental libertarian commitment to self-ownership and bodily autonomy is plainly inconsistent with Rand Paul's declared views on abortion and gay marriage.¹⁵ Rand Paul might object that he is simply regarding foetuses as self-owners, but it is impossible to make this claim about moral standing in such a way that it can be made to be consistent with the conception of choice-rights that underpins libertarian self-ownership.

Republican libertarians are fairly influential, but more prevalent—in terms of opposition to vaccination programmes in the US—is the influence of evangelical Christianity, the rightward drift of the Republican Party and the endorsement by many in the party of ideas associated with Christian Nationalism. Christian Nationalism is a broad movement motivated by the claim that the US constitution does not require the separation of church and state, that the US is foundationally a Christian nation and that the state (states individually or the federal government or both) ought to legislate in various ways to give full expression to the idea of the United States as an exclusively Christian nation.¹⁶ One of the peculiarities of this religious political ideology—peculiar given the obvious authoritarian implications of the doctrine—is the way in which it is often rhetorically glossed as a commitment to a distinctively North American variety of constitutionalism and liberty. Christian Nationalists are very keen on presenting their opposition to vaccination programmes as a principled objection to violations of religious liberty—and they often do so using the language of libertarianism—but, again, it is impossible to square the commitments behind these rhetorical flourishes with any consistent set of libertarian principles.

¹⁵For Rand Paul's views on abortion, see https://www.ontheissues.org/social/Rand_Paul_Abortion.htm; for his views on gay marriage, see <https://www.washingtonpost.com/news/post-politics/wp/2015/03/28/rand-paul-gay-marriage-debate-a-moral-crisis/> (both accessed 9 March 2022).

¹⁶A. Whitehead and S. Perry, 'How culture wars delay herd immunity: Christian nationalism and anti-vaccine attitudes', *Socius*, vol. 6, 2020; <https://journals.sagepub.com/doi/full/10.1177/2378023120977727>; see also J. Haynes, 'Donald Trump, the Christian right and COVID-19: the politics of religious freedom', *Laws*, vol. 10, no. 6, 2021; <https://doi.org/10.3390/laws10010006> (both accessed 9 March 2022).

¹³W. Bilyeu, 'Libertarian Party reaction to Biden's six-point COVID-19 mitigation plan', Libertarian Party, 10 September 2021; <https://www.lp.org/libertarian-party-reaction-to-bidens-six-point-covid-19-mitigation-plan/> (accessed 9 March 2022).

¹⁴US Senate, 'Dr Rand Paul introduces legislation to repeal DC vaccine mandates'; <https://www.paul.senate.gov/news/dr-rand-paul-introduces-legislation-repeal-dc-vaccine-mandates-consumers-and-students> (accessed 9 March 2022).

Moreover, many adherents of Christian Nationalism are also vaccine sceptics and endorse conspiracy theories about Covid-19 and Covid-19 vaccines. To take just one example from the very many available, Congressman Barry Moore of Alabama, in a debate on vaccine mandates in 2021, approvingly cited Lieutenant Colonel Theresa Long, a military physician who falsely claimed that Covid-19 vaccines contain antifreeze.¹⁷ While many evangelical lawmakers use libertarian-sounding rhetoric, the substance of their views cannot be located in a clear libertarian framework, and we should treat the appearance of commitment to libertarian principles with a good deal of scepticism. The influential *ad hoc* mixture of traditional conservatism, evangelical religiosity and the rhetoric of libertarianism characteristic of Tea Party Republicans has served to raise the profile of right-libertarianism, but the positions taken by these representatives are wildly inconsistent.

To conclude, libertarian principles provide little justification or, at best, highly equivocal justification for opposition to vaccination mandates and other public health interventions. For that reason, libertarian principles—even right-libertarian principles—do not provide the kind of support that opponents of vaccination programmes often seem to think they do. It is thus very easy to overstate the influence of genuine and consistent libertarian principles on the public-political vaccine debate in the United States.

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¹⁷US Congress, 'Resist vaccine mandates', Congressional record, vol. 167, no. 184, 20 October 2021; <https://www.congress.gov/congressional-record/2021/10/20/house-section/article/h5707-2?q=%7B%22search%22%3A%5B%22vaccine%22%2C%22vaccine%22%5D%7D&s=1&r=8> (accessed 9 March 2022).