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HPS/PL 183: Bioethics

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Bioethics Midterm

*Q: When Velleman speaks of a “right to die”, which he also refers to as a “right to receive euthanasia”, he is referring to it as a “positive right”. Velleman believes that some patients would benefit from euthanasia yet says that patients should not have a right to receive euthanasia. How does he reconcile these two claims? Do you agree? Why?*

*R:* The policy debate around euthanasia often hinges on a debate over positive and negative rights. Whereas negative rights are simple rights to non-interference, a positive right is one which entitles an individual to a benefit or service which must be performed by others. Velleman identifies the “right to die” (a right for patients to receive medical euthanasia) as a positive right, in that a physician must intervene to provide the service. Velleman introduces a contradiction. He claims that receiving active euthanasia as a service can be highly beneficial to patients and reduce harm, while arguing against the right to receive it. In this argument, I will detail Velleman’s claim and how he apparently resolves this contradiction before detailing my own objections to his perspective.  
 Velleman’s stance can be summed up as follows. A right to euthanasia grants patients the option to choose euthanasia where no choice existed previously. Granting patients a choice is harmful to them, even if we expect they will always choose the option that’s best for them. Therefore, the right to die is harmful, and based on the principle of non-maleficence, should not be allowed, even though euthanasia can be beneficial to patients. Clearly, the contentious part of this argument is the premise that granting patients a choice is harmful to them, so Velleman goes to great lengths to justify this point.

To present the harm of choice, Velleman first raises the analogy of the business negotiation. In a negotiation, a participant who has no options to prove is arguing from a position of strength or ultimatum – either you concede to my demands, or there will be no deal. On the other hand, a negotiator with several options to offer will be pressured by their opposition to accept an outcome which is less than optimal for them to get a deal done. Note that this would still be the best choice for the negotiator since it still results in a deal, but had they not had multiple options available in the first place they could have received a more optimal outcome for themselves. By analogy, a patient who is offered the choice of euthanasia is in a weaker position than one who is not – once the euthanasia is offered it becomes the best choice for the patient, *even though* it was not the optimal outcome for them.

As further illustration of the harms of choice, Velleman discusses the case of a store cashier who is given the combination to the store’s safe. This knowledge implicitly gives the cashier the option of opening the safe. In this case, knowing that the cashier has the combination, the robbers in the area will target the cashier for robberies. The robbers may offer the cashier a choice – open the safe or die. Notice that once the cashier has the option to open the safe, it is the best option for them to do so. However, had they not had that choice, they wouldn’t have been targeted in the first place, and would have had the more optimal outcome of not having to open the safe at all. Similarly, Velleman worries that once patients are implicitly given the option of euthanasia through the right to die, it will attract outside pressures from society onto them to choose euthanasia. For example, popular opinion may not value the lives of the physically or mentally disabled. Once one has a disabling affliction, they may be forced to continually justify their continued resistance to euthanasia against this public opinion. With these external pressures, it may become the right option for them to choose euthanasia, yet without the right to die, they would have had the more optimal outcome of never experiencing those pressures to begin with.

Via these arguments and a few more points, Velleman establishes that choices can cause harm, and that the right to euthanasia does provide patients with a harm-causing choice. Velleman therefore concludes based on the principle of non-maleficence that providing a right to euthanasia is unethical, despite the potential benefit of euthanasia to some patients. However, I feel there is a serious objection to Velleman’s argument on the grounds of the principles of beneficence and justice.

Velleman began his argument by establishing the benefits that active euthanasia can provide to many patients. Considering this benefit as undisputed, the principle of beneficence implies that this treatment should be allowed to those patients for whom it would be beneficial. Without a right to euthanasia, the ability for a patient to access euthanasia is totally at the whim of the doctor providing care to the patient. Different doctors will have staunchly different perspectives on active euthanasia, and therefore the outcome of this system is that some patients will have access to different quality of treatment due to idiosyncratic features of the doctors providing their care. This is a clear violation of the principle of justice.

Further, consider the nature of the objections to the right to die that were raised by Velleman. The harm caused by offering the choice of euthanasia to patients is based on pressures imposed on a patient by society. However, I believe that in this case, it is not the right to die that is to blame for the harm caused to the patient, but that the blame lies in the hands of the society inflicting these harms onto the patient. The tendency for society to value the lives of the physically or mentally disabled less than other people reflect unjust biases and discrimination in society. People’s desires not to serve as caretakers for the feeble or elderly demonstrate a shirking of moral duties and responsibilities across society. These patterns of unethical behavior in society are what apply undue pressures to receive euthanasia upon the patients offered it. To use Velleman’s own analogy, the cashier who knows the password to the safe would have no harms inflicted upon him if there weren’t bad actors – robbers – at large in his society.

While it is impossible to eliminate these injustices from society to fix this issue, my argument shows that it is wrong to withhold the right to euthanasia on the basis given by Velleman. The heart of the problem lies in current injustices in society exerted onto the community who the right to euthanasia would apply to. To inflict further injustice upon this community by providing inconsistent access to euthanasia is not a solution to this problem; rather policy should focus on minimizing the harms of the right to die while still providing consistent healthcare to all in a just manner.

*Q: Some argue that mandatory vaccination policies violate the moral principle of consent because the consent is not voluntary. However, others respond that mandatory vaccination would only be involuntary if it involved forced injections. Since no one is forced to take on pursuits requiring vaccination, individuals remain free to refuse the medical intervention by opting not to participate in them. To what extent is such a response justifiable? Discuss.*

*R:*  In a post-COVID19 world, the public eye has been turned onto politically charged debates over public health that the layperson would rarely consider during normal times. Among the terms of this debate is the concept of a vaccine passport, a document indicating you have received a vaccine required to access businesses, services, and public spaces. While vaccination policies in the US and around the world never reached this extent, just the discussion of such a circumstance alone shows such a policy could be enacted. It is therefore worth taking an in-depth look at the ethics of this sort of rule.  
 Opponents of vaccine mandates will argue that vaccine mandates overrule the principle of patient autonomy by coercing patients into receiving a treatment they would not have freely chosen. Coercion universally constitutes a clear violation of informed consent, one of the key components of clinical ethics. Whether or not these concerns should be taken seriously will require analyzing whether such policies truly represent coercion.

Those in favor of the vaccine mandates will argue that these vaccination policies do not violate consent. In their argument, the vaccine remains an individual choice. A person can choose to either have the vaccine or not, and if they choose not, it will simple be a consequence of their choice that certain careers, businesses, or activities will be out of reach for them. Since the patient gets to make this choice, their consent is not violated. However, in my opinion, this argument is clearly incorrect and unjustified.

Imagine a mugger was in court for mugging somebody. The prosecutor claims that the mugger robbed the man he mugged, but the defense has a response ready. The defense claims that the mugger offered the man he mugged a choice: Either give me all your money or suffer bodily injury and death. Since the mugger gave the man a choice, it wasn’t robbery but was rather the man’s own autonomous choice to give his money to the mugger. I seriously doubt anyone would take this argument seriously, and yet I find it highly akin to the case made by those in favor of the vaccine passport type policies. At first glance, one could argue that the mugger constitutes a direct threat to the life of the man being mugged, while the vaccine mandate poses the threat of only moderate restrictions of activities and occupation. However, this claim is intentionally short-sighted. Many of the activities off-limits to the unvaccinated are required for life in a modern society. Without a steady stream of income through employment, most of us would lack vital resources almost immediately. If not allowed to shop in grocery stores, we would be unable to access food.   
Delivery isn’t a feasible option with resources constrained by employment. Even if the refusal to receive the vaccination wouldn’t necessarily result in death, it will still feel to the pressured individual that there is a threat against their life due to not receiving the vaccine for the reasons listed above. This is also captured by the mugging example – the criminal may have no intention of pulling the trigger or killing, but the threat alone is certainly enough to conclude there is coercion at play.

Even if you feel that the case made above is too extreme and that the restrictions resulting from remaining unvaccinated don’t inspire fear of death, the case for coercion still stands. Even if the loss of one’s employment doesn’t cause a risk of death, it is still plainly seen as an indisputably severely negative event that people would go to vast lengths to avoid. Therefore, the pro-vaccine mandate case that the vaccine passport policy is not coercive fails. However, there are other more viable routes through which supporters can make a moral case for vaccine mandates.

Having established that vaccine mandates are coercive, defenders of mandates need to produce a justification for coercion under certain circumstances. For vaccine mandates, this argument is that the right to life of many supersedes the harm caused by coercion of individuals who wish to remain unvaccinated. Vaccine mandates are not put in place paternally to protect those who receive the vaccine from the disease in question, they are put in place to create herd immunity and protect those members of society who are vulnerable to the disease in question, even after being vaccinated. Vaccine passport policies take these measures a step further, attempting to remove unvaccinated individuals from public spaces to prevent their transmitting the disease to those vulnerable. The proponent may therefore argue that the right to life for the persons protected by these vaccine policies supersedes the harm caused by coercion. There is a firm consequentialist, and virtue ethics-based justification for this argument. Firstly, one can argue that the consequences of coercion are mild losses of autonomy in receiving a vaccine that is beneficial to the individual anyway, as compared to the deaths of vulnerable members of society, so that the vaccine policies stand on a firm consequentialist basis. Secondly, one could claim that protecting the vulnerable members of society from harm demonstrates the virtue of compassion and altruism, justifying the argument through virtue ethics.

Note that this argument does *not* justify all vaccine mandate or vaccine passport policies. Key to this argument is the proportionality of the vaccine mandate as a measure to the harms caused by the disease vaccinated against. For example, a mandate for a flu vaccine would likely not be justified through this argument, since the threat of the disease to society is relatively low. The chances of passing the flu onto someone which will result in their death while in a public location is extremely low for the unvaccinated. Only for those more deadly and transmissible diseases would this argument stand.

The argument that vaccine mandates do not constitute coercion is intentionally short-sighted and misguided. Just because the vaccination needle is not forcibly inserted does not mean that the social and economic pressures exerted are not extremely coercive. These pressures represent a proverbial gun to the head of those who wish to remain unvaccinated. However, this does not spell doom for the moral basis of vaccine mandates. Instead, this shows that one needs to reformulate the argument for vaccine mandates and claim that the right to life of those protected by the mandates supersedes the coercion caused by them. This argument can be justified through multiple ethical theories, and therefore holds promise as method of justifying proportional vaccine mandates in public health policy.