



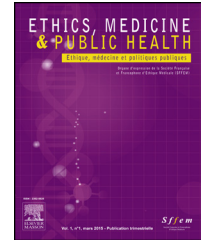
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## LETTER TO THE EDITOR

### Mandatory anti-SARS-CoV-2 vaccination: Seeking a balance between individual and collective rights. The Italian experience



#### KEYWORDS

Anti-Sars-Cov-2 vaccine;  
 Mandatory vaccination;  
 Health right

Dear Editor

We read with interest the article by Fung Kei Cheng “Debate on Mandatory Covid-19 Vaccination” [1] since CoronaVirus Disease-19 (Covid-19) pandemic has put a strain on public health. Sars-Cov-2, as a *very new* pathogen, has highlighted some of the dark sides of globalization, but above all the unpreparedness of “Northern World Region” health systems, accustomed to chronic and degenerative diseases management, as well as the shortage of resources of “Southern World Region” healthcare, then leading to the consciousness of the similarity of global needs and rights, in face of pandemic, and to the urgency of global commitment.

In the absence of effective therapy and widely shared therapeutic guidelines, vaccination has represented the best option to limit virus spreading and to reduce morbidity and mortality caused by infection, so that many States have undertaken mass vaccination campaigns, sometimes making anti-SARS-CoV-2 vaccination mandatory, in order to quickly achieve herd immunity. Of course, these topics have relieved the debate on the balance between individual and collective rights, common to any liberal State, underlying the role and the justification of law, up to the most critical circumstances in which the State acts with obligations.

The debate on compulsory vaccinations, from the very beginning, has asked the worlds of science and law to provide truthful and authoritative answers to citizens and pointed out democratic governments’ and means of communication’s responsibilities about the correct use and sharing of scientific data [2]. We agree with the Author about the holistic approach “to live with Covid-19 in a healthy and resourceful manner”, because it finds in dialectic the rigorous logic for practical application in the current context [1].

In Italy, the debate on mandatory vaccinations has been very topical since 2017 [3], when the Legislator imposed an “indirect” obligation of immunization for children

attending compulsory school (making school enrollment possible after a self-declaration of occurred vaccination, but without consequent criminal sanctioning in case of refusal). This follows the drop of vaccinations, the crisis of the herd immunity and the recirculation of ancient pathogens, as the reappearance -for instance- between 2015 and 2017 of 8 cases of diphtheria [4].

The high rate of infections and hospitalizations, the absence of effective therapies till January 2022 and the saturation of intensive care units in the Italian setting have represented so much a stress for public health system that anti-SARS-CoV-2 vaccine represented *hic et nunc* the most suitable strategic option to face pandemic. In fact, it is necessary to recognize that alternative solutions, such as social distancing, were not feasible in the Italian setting, for psychological and economic issues, so that a new total lockdown was not an option at all [5].

Of course, we must not forget that “no medicinal product can ever be considered risk-free” and when a person decides “to use a medicine or undergo a vaccination” should balance “the benefits with the risks”. “Verifying that the benefits of a vaccine outweigh the risks and reducing these to a minimum is the responsibility of the health authorities that regulate the introduction on the market of medicinal products” [6].

The speed of production and marketing of anti-SARS-CoV-2 vaccines and the high flow of data and information have made many people worried about vaccines’ safety, creating vaccine hesitancy or even rejection, even if, to date, collected data on anti-SARS-CoV-2 vaccines’ administration have demonstrated their overall safety [7]. For this reason, to overcome the resistance of some groups of subjects, it was necessary to make vaccination mandatory, “indirectly” for the general population and exceptionally “directly” for people at greater risk or for healthcare professionals.

Anyway, within the limits of the provisions of the second paragraph of article n. 32 of the Italian Constitution “the law cannot in any case violate the limits imposed by respect for the human person”, collective interest must not infringe individual rights, according to J. Rawls’ assumption “justice as fairness” [8].

In conclusion, mandatory anti-SARS-CoV-2 vaccination finds its justification in the current *atypical* health and social context. The “indirect” obligation strategy appears to be the very best way forward since, in addition to being constitutionally oriented towards balancing individual autonomy and collective well-being, it is easier to implement. The “indirect” obligation guarantees respect for all “human persons”, especially protecting those more fragile

categories, whose free choice must be safeguarded by the State. However, even with obligations, information and individual consent remain essential requisites and so an equal commitment must be requested to State, to guarantee adequate and widespread scientific evidence-based information on vaccination [9].

### Human and animal rights

The authors declare that the work described has not involved experimentation on humans or animals.

### Informed consent and patient details

The authors declare that the work described does not involve patients or volunteers.

### Source of funding support

This article did not receive any specific grant from funding agencies in the public, commercial or not-for-profit sectors.

### Author contributions

All authors attest that they meet the current International Committee of Medical Journal Editors (ICMJE) criteria for Authorship.

### Original work

This study is the author's original work. Its findings have not been published previously, and this manuscript is not being concurrently submitted elsewhere.

### Disclosure of interest

The authors declare that they have no competing interest.

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Received 28 March 2022;

accepted 19 April 2022

<https://doi.org/10.1016/j.jemep.2022.100797>

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