

# COMMENTARY

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## Mandating the COVID-19 Vaccine for U.S. Service Members: An Exploration of Ethical Arguments

MAJ Jeanne A. Krick, MC, USA\*; MAJ Tyler R. Reese, MC, USA†

**ABSTRACT** As the COVID-19 pandemic continues across the globe, the advent of novel vaccines has created a possible path to prepandemic life for many. Still, many individuals, including those in the U.S. military, remain hesitant about getting vaccinated. The U.S. Food and Drug Administration recently granted full approval to the Pfizer-BioNTech mRNA vaccine (Comirnaty). Consistent with messaging from President Biden, the Department of Defense leadership has instructed the military to prepare for mandatory vaccination. While many have praised this declaration, others have raised concerns regarding the suppression of individual service member autonomy. This commentary explains the different ethical principles relevant to individual autonomy and how they are understood in a military context and then explores the ethical arguments both for and against mandating vaccination for all U.S. service members.

### INTRODUCTION

The SARS-CoV-2-driven coronavirus disease 2019 pandemic continues across the globe, with almost four and a half million deaths attributed to the disease as of August 2021.<sup>1</sup> For many, the advent of vaccines targeted against COVID-19 in late 2020 represented a turning point and the possible path toward returning to prepandemic life. As more Americans have become inoculated, restrictions have eased across the country and case rates in some communities had begun to slow, prior to the emergence of the Delta variant. With the emergence of this variant and growing case rates, the Centers for Disease Control and Prevention released a statement in July 2021 urging eligible Americans to get vaccinated.<sup>2</sup>

Still, many Americans remain hesitant about receiving one of the vaccines, citing concerns over long-term safety and efficacy. Emerging data indicate that vaccine hesitancy may be even higher among service members. With growing concerns about the potential impact of these refusals on the ability of the Armed Forces to perform their primary duties related to national security, the Department of Defense leadership has instructed military leadership to prepare for mandatory

vaccination for all active duty service members by September 2021.<sup>3</sup> While articles have explored the legal arguments both for and against this mandate, this article will explore the ethical arguments relevant to mandating COVID-19 vaccination for all U.S. service members.

### THE COVID-19 VACCINE

As of August 2021, three vaccines have been approved by the U.S. Food and Drug Administration (FDA) for administration in the United States. The Pfizer-BioNTech mRNA vaccine (Comirnaty) received full FDA approval in late August for adults and older adolescents, while the Moderna mRNA vaccine and the Janssen (Johnson & Johnson) novel viral vector vaccine remain under an emergency use authorization (EUA). The mRNA vaccines have shown an efficacy of 86 to 96% effectiveness at preventing SARS-CoV-2 infection, and the Janssen vaccine has shown 77% efficacy for contracting SARS-CoV-2 infection and more than 89% efficacy for preventing hospitalization.<sup>4</sup> Overall, the vaccine risks appear consistent with other common immunizations like influenza vaccines.<sup>5</sup>

In March of 2021, President Biden called upon all states, tribes, and U.S. territories to make all U.S. adults eligible for vaccination no later than May of 2021.<sup>6</sup> Even so, as much as 20% of American adults report that they will decline the vaccine or only receive it if mandated to do so.<sup>7</sup> This vaccine hesitancy is potentially even higher amongst U.S. military personnel, with a report revealing that 40% of Marines have declined the vaccine.<sup>8</sup> Originally, the decision to receive the COVID-19 vaccination remained voluntary for U.S. service members, with a primary justification being that a 2003 law requires individual service members to provide informed

\*Department of Pediatrics, Madigan Army Medical Center, Tacoma, WA 98431, USA

†Department of Family Medicine, Madigan Army Medical Center, Tacoma, WA 98431, USA

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consent prior to receiving any products under an EUA.<sup>9</sup> Under this law, the President retains the authority to waive the informed consent provision in the interest of national security. With the rise of the Delta variant and sluggish vaccination rates across the country, however, the Secretary of Defense, Lloyd Austin, released a statement instructing military officials to prepare for mandatory vaccination of service members by September 2021.<sup>3</sup> Now that the Pfizer-BioNTech mRNA vaccine has received full FDA approval, the 2003 law no longer applies and senior military officials may legally enforce mandatory vaccination. While many across the country, both within the military and civilian sectors, have expressed support for this initiative, others have raised concerns related to this mandate. Here, we discuss the ethical implications of this mandate.

## **RESTRICTING AUTONOMY**

One of the key principles of medical bioethics is respect for autonomy, whereby individuals have the moral authority to make decisions for themselves, even if those decisions conflict with medical advice.<sup>10</sup> Restricting autonomy can be ethically permissible under certain conditions. The principle of paternalism, the legal-moral principle, the offense principle, and the harm principle all address various situations where these conditions may be met.

The principle of paternalism states that it is permissible to restrict an individual's autonomy when it is in their best interest (i.e., for their own good).<sup>11</sup> The military frequently adopts paternalistic practices that restrict the individual choice of service members. An example of this would be a unit's requirement for a supervisor to accompany lower enlisted personnel when they are buying a new vehicle. While this requirement restricts the autonomy of the individual service member to make financial decisions for themselves, it is enforced to ensure that these personnel are not exploited due to their lack of experience with large purchases. Many would argue that the principle of paternalism is too broad in restricting individual autonomy and should be avoided in favor of more restrictive principles.

Another standard, the legal-moral principle, holds that an individual may restrict the autonomy of another if they are performing or about to perform an immoral action.<sup>12</sup> The exercise of this principle requires a judgment about the morality of individual actions. An example of this in the military is the establishment of restricted "off-post" businesses and the punishment for visiting them. Many facilities are assigned this status due to being associated with a business that may be seen as immoral (e.g., strip clubs and tattoo parlors) but not necessarily illegal. This principle is often applied by philosophers to describe so-called victimless crimes, where the opinion of the majority dictates what is immoral. The application of this principle relies upon a subjective determination of immorality through religious, social, or historical lenses, leaving it open to objection from those favoring a less restrictive and better-defined standard.

A third tenet, the offense principle, argues that individual autonomy may be restricted to prevent offense to others.<sup>13</sup> This principle is frequently applied in the regulation of speech or actions that could be offensive to individuals within a community. The prohibition of certain offensive displays in living quarters and workspaces (e.g., nude calendars and Confederate flags) is one way that the military applies this principle. The restriction of individual choice to display such items is justified due to the offensive nature of the objects. Like the legal-moral principle, this relies on a subjective judgment of what is offensive through a historical and social intersectionality lens and may be seen as more restrictive of autonomous choice without clear justification.

The final and least restrictive principle is the harm principle. Originally espoused by John Stuart Mill, this principle states that individual liberty may be constrained to prevent harm to others.<sup>14</sup> Within the military, this can be broadened to include harm to the organization as a whole.<sup>12</sup> When a service member is deploying to a region known to have high rates of malaria, for example, they may be compelled to take medication against their wishes in order to protect themselves from infection and remain fully mission capable. The justification for this lies within the harm principle in that if they are unable to remain healthy, they may not be able to adequately perform their duties and contribute to the overall mission, putting their fellow service members at risk of harm due to the loss of their manpower. This would be harmful to the whole organization, so it is reasonable to restrict a service member's individual autonomy in this situation.

When individuals join the all-volunteer U.S. military, they agree to suspend a certain degree of personal autonomy as they take an oath to support and defend the Constitution of the United States against all enemies, foreign and domestic.<sup>15</sup> This oath has service members place national priorities above their own personal liberties. Even so, they are typically given the liberty to make individual medical decisions for themselves in keeping with the principle of respect for autonomy. When military officials seek to restrict this autonomy for medical decision-making, they should strive to act in accordance with the least restrictive principle appropriate for the situation. In doing so, the military is recognizing the individual moral worth and authority of the individual service member while protecting the military organization and other service members.

## **ARGUMENT FOR VACCINATION**

In analyzing the ethical argument for mandating COVID-19 vaccination for service members, senior military leaders could choose to restrict individual autonomy utilizing the harm principle as justification in relation to harming other individuals as well as the whole organization of the military. As it is possible to spread COVID-19 without showing any symptoms, especially with the Delta variant, unvaccinated individuals pose a threat to those around them, even if they undergo strict symptom screening and postexposure quarantine.<sup>16</sup> This risk may

be higher in military settings, where service members often perform their duties within close quarters (e.g., aboard a ship and within a tank) as part of a team. Additionally, service members cannot simply choose to avoid those within their ranks that have refused vaccination as many could in civilian employment. This threat of harm to other service members could be interpreted as crossing the harm threshold, making it ethically permissible to mandate inoculation.

In addition to the impact at the individual level, unvaccinated service members pose a direct threat to the military's ability to perform their primary mission of protecting the nation and its interests. Outbreaks can, and have, spread rapidly in military settings and can compromise a unit's ability to perform their primary missions.<sup>17</sup> Since those missions often involve the critical defense of national interests, a significant outbreak can directly threaten national security. Even the possibility of such outbreaks can undermine the nation's confidence in the military's ability to provide such security. COVID-19 spreads more readily than many other viruses (e.g., 2–2.5 times more than the influenza virus) and, as a result, requires a higher number of individuals to acquire immunity before achieving community protection.<sup>18</sup> The continued presence of unvaccinated service members will hinder the effort toward such herd immunity and could be seen as harmful to the whole organization. Senior leaders could determine that this risk of harm to the military's ability to be a reliable force for the nation is enough to cross the threshold of harm to justify the restriction of individual autonomy and mandate the COVID-19 vaccination.

### **ARGUMENT AGAINST VACCINATION**

While the ethical argument to justify mandating the COVID-19 vaccination for service members is clear, it is just as important to rigorously evaluate the goal of protecting national security and highlight options that are least restrictive of individual medical autonomy. Military service members, in general, are not a high-risk population for morbidity and/or mortality from COVID-19 illness (albeit the increased prevalence of the Delta variant has shown this population to be more at risk for long-term medical complications than with prior strains).<sup>19</sup> A paternalistic justification of mandating vaccination for this population (i.e., because it is “for their own good”) would, therefore, be weak, as they are less likely to suffer significant health consequences from infection. Similarly, both the legal-moral and offense principles would be inappropriate justifications for mandating the vaccine, as it would be overly subjective to claim that an individual's choice to refuse vaccination is either offensive or immoral.

While it is possible to use the harm principle as a justification for mandating the vaccine, it is first important to assess the level of harm that is being claimed and investigate if there is any other method by which that harm could be addressed in a way that minimizes the restrictions to autonomy. As has been described, the major harms are infection to other service members and undermining of the status of the military as a reliable force for protecting national interests.

While mandatory vaccination would address these harms, it is important to investigate whether less restrictive means might accomplish the same goals. First, there are many strategies for reducing the risk of transmission from person-to-person, even in close quarters. With the use of adequate personal protective equipment, hand hygiene, social distancing where possible, and symptom screening, the risk of person-to-person transmission is quite low.<sup>20,21</sup> Additionally, the military, along with the rest of the world, has adapted workflows and meetings, where possible, to allow for social distancing and greater ventilation to help prevent person-to-person spread. It is important to determine if the enforcement of these measures may reduce the risk of transmission to the point where the harm principle justification is weakened and no longer adequate to justify the restriction of autonomy.

The second harm of an inadequately vaccinated force is the undermining of the military's status as a ready force to protect national interests. Here, senior leaders must determine if there are other ways of ensuring a ready force that do not rely upon mandatory vaccination. One way to accomplish this is by achieving a high rate of voluntary vaccination amongst service members. This may occur as more individuals receive their vaccine without significant adverse reactions, coupled with increased education campaigns targeted at specific concerns related to the vaccine. This may, in part, explain the more recent increase in vaccination rates amongst service members.<sup>22</sup> Still, it is likely that several individuals will remain hesitant to receive the vaccination and leaders will have to consider other options. Prior to mandating the vaccine, senior leaders could choose to incentivize vaccination or create a burden for those who choose to refuse. Such policies could include such things as special allowances for those who are vaccinated (e.g., attendance at fun group activities and no restrictions on travel during leave) or further restrictions for those who are unvaccinated (e.g., restricted travel and noninclusion in desirable unit functions). It will be important, however, for leaders to ensure such policies are equally and equitably enforced without creating unforeseen incentives to nonvaccination, like more time away from work and prevention from deploying on undesirable missions. While this is not an exhaustive list of alternatives to accomplishing the primary military mission, it does demonstrate other options to consider. If, however, voluntary vaccination rates remain lower than necessary to allow the military to continue its important mission, the restriction of individual autonomy on the basis of the harm principle may be justified.

### **CONCLUSION**

The large number of service members who have expressed hesitation at receiving the COVID-19 vaccination represents a real threat to national security, which may be addressed through mandatory inoculation for this population. While it is important for senior leaders to consider alternatives to mandatory vaccinations that would still allow the military to remain able to perform its primary mission, the rising prevalence of the Delta strain and full FDA approval of the Pfizer-BioNTech

vaccine has shifted the calculus. Simultaneously, growing tensions across the globe (e.g., the shifting of power in Afghanistan) may place increased demands upon U.S. service members, and the leadership may determine that they are unable to meet the primary mission of military readiness without a vaccine mandate. Given all these considerations, the call for mandatory vaccination of U.S. service members is ethically justified. In explaining the rationale for this mandate, senior leaders should strive to use the least restrictive justification for overriding individual autonomy (i.e., the harm principle) and disseminate consistent messaging throughout the military as to this justification. Only then will they be able to ensure a ready military force while simultaneously valuing the worth of individual service members and their medical choices.

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