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Right to infection control vs. duty to infection control

>> When the coronavirus pandemic reached Germany, the German government reacted with extremely restrictive measures to contain the virus. The so-called 'lockdown' was imposed: contacts outside of one's own residential community were prohibited, the hospitality industry and most retail shops had to cease operations, schools and day-care centres were closed, and many federal states even imposed curfews.

The German Ethics Council supported the measures in March 2020 with an ad hoc recommendation that contained this passage: ' From an ethical point of view, [...] restrictions on freedom are currently justifiable. Even considerably burdensome concomitant damage is reasonable.'

The only reason given was that the healthcare system had to be protected from being overburdened. However, there was no ethical discussion of the extent to which this objective would justify these enormous restrictions on freedom. However, this is exactly what one would expect from an ethics council.

The collateral damage of these restrictive measures was devastating: the insolvency rate of partnerships and corporations in 2024 reached levels similar to 2010 after the financial crisis. The Halle Institute for Economic Research (IWH) attributes this to 'catch-up effects' from the coronavirus pandemic, among other things, as the state support measures were only able to slow down the decline triggered by the lockdown. Children and young people suffered severe learning deficits due to the school closures, and the lack of social contact led to depression in many people. Society became increasingly polarised while the measures were in place. In particular, the debate about vaccination and a possible general vaccination obligation led to a division between the 'vaccinated' and the 'unvaccinated'. In December 2021, the German Ethics Council revised its previous rejection of compulsory vaccination and now voted 20:4 in favour of it.

Many people only got vaccinated because they could no longer withstand the social pressure. This 'perceived vaccination obligation' led to a loss of trust in German politics for many people and radicalised them.

The collateral damage of the restrictive measures seems to outweigh the benefits. Especially when you consider that Sweden ultimately came through the pandemic no worse than Germany, even though almost no restrictive measures were taken, and instead the primary appeal was made to people to take responsibility for themselves. So what could be done better in future? Does a state have other ways of slowing down a pandemic than taking restrictive measures and making the entire population responsible for protecting themselves and others from infection? Yes, instead of an obligation to protect against infection, a right to protect against infection could be introduced, which would not affect civil liberties.

What is the key difference between a right to protect against infection and an obligation to protect against infection? In the case of an obligation, everyone is forced to support certain measures, even if they are of the opinion that they are useless or reject them for other reasons. What's more, measures such as a curfew, compulsory vaccination or a ban on working represent serious violations of various freedoms and fundamental rights, in particular compulsory vaccination. The right to the integrity of one's own body is one of the highest ethical goods and should be protected by a constitutional state under all circumstances and not violated! 'Man as an end in himself', as Immanuel Kant put it in his moral philosophy. A human being must never be misused as a mere means to something, but this is exactly what happens when vaccination is carried out against one's will.

With a valid right to protection against infection, all citizens have the right to protect themselves from infection in the best possible way. This essay does not have the scope to list a comprehensive catalogue of precautions, but a few examples can certainly be given, such as the right to work from home if a professional activity allows this. Learners would have the right to distance learning. State subsidisation of masks or the subsidisation of certain retail outlets so that they only allow a small number of customers in the shop at the same time, drastically reducing the risk of infection, would also be conceivable.

Public transport could also introduce buses and trains that only allow a small number of passengers. In addition to these rights, the population would have to be informed about protective measures in the best possible way so that they can take them at their own discretion. The polarisation of society would not happen to the extent that it did through coercion and obligation, because no one would be forced to behave or even be vaccinated against their will.

But what if a new pandemic actually threatens to overburden the healthcare system, the protection of which was the reason for the restrictive measures during the coronavirus pandemic, and a large part of the population demands bans and obligations such as compulsory vaccination? A step could be taken here that is difficult to imagine from a paternalistic point of view, but only logical from a liberal point of view, namely that vaccination refusers could be expected to have no right to treatment in the event of infection and a severe course of the disease.

An individual right to protection against infection would most likely lead to the same health outcomes as an obligation, because who would voluntarily expose themselves to the plague when it is rampant? However, a right to protection against infection does not lead to the social and individual trauma that our population has suffered during the coronavirus pandemic. <<