

COVID 19 Vaccination: Should It Be By Choice or Mandatory In Ghana? Our Opinion in Response to Political Activists.

Abstract:

Some political actors and activists have waged war against compulsory vaccination in Ghana by insinuating that such decision by government is an affront to the rights and freedoms of citizens as enshrined in the 1992 republican constitution. This paper scrutinizes this position and supports the fact that government did not err in its decision to impose compulsory vaccination on persons travelling into and out of Ghana. In doing this, relevant materials were reviewed. The World Health Organization at its thirteenth world health assembly on 25th April 1960 recommended compulsory vaccination. Chapter five (5), article twelve (12) section two (2) of the 1992 constitution makes it possible for citizens to enjoy their rights and freedoms but subject to respect for the rights and freedoms of others and for public interest". The Public Health Act, 2012 (ACT 851), part II (Vaccination), Section 22, subsection (1), gives power to the Minister of Health, through a legislative instrument (LI) to order compulsory vaccination for public interest. The vaccination ACT 1919, CAP.76 in section 3, subsections (1) and (2) also give powers to minister of health to issue such directives. Again, articles 31 and 32 of the 1992 Republican constitution, give room for the declaration of state of emergencies making it possible for one to be "legally deprived" of the enjoyment of the fundamental human rights and freedoms enshrined in chapter five (5) of the 1992 constitution in times of natural disasters such as COVID-19.

Key Words; COVID 19, Vaccination, Mandatory, Ghana and Political Activists.

BACKGROUND:

Countries have had to adopt several strategies to control the spread of the COVID-19 virus. These measures include social distancing (physical distancing), suspension or modification of working

activities, restricted movement and obligatory use of facial masks (Roma et al., 2020). Although necessary, yet these measures have had both direct and indirect negative consequences on national economies and personal health (Mazza et al., 2020), leading to a rise in mental disorders and unhealthy behaviors (Fontanesi et al., 2020).

In 2020, efforts were made across the world to rapidly develop vaccines for COVID-19 (García-Montero et al., 2021). In this process, scientific and medical communities worked together with governmental institutions to produce a vaccine in record time (García-Montero et al., 2021). The COVID-19 vaccination rollout encountered challenges at the early stages (Crane et al., 2021). A study conducted among 2,734 people in all sixteen regions of Ghana showed that some citizens felt that the vaccine was unsafe, they were not sure of the effects. Others too for cultural, social and religious reasons opposed the vaccination exercise; people were generally uncomfortable (Tagoe et al., 2021).

Unfortunately our dear country is politically polarized to the extent that people listen more often to the opinions of their party people than facts and experts (El-Far Cardo et al., 2021). It is against this backdrop that I find the comments made by other stalwarts and particularly, Sammi Gyamfi, the National Communication's officer of the NDC as not only unfortunate, but dangerous and has the potential to do great disservice to the good people of this country . For him to posit that, ***“vaccination must be by choice and not by force. The imposition of compulsory COVID vaccination requirement on all Ghanaians traveling into and out of Ghana by the Ghana health Service is reprehensible and an affront to the 1992 constitution”*** (Sammy Gyamfi, 3 Others Sue AG, GHS over Compulsory COVID-19 Vaccination), is nauseating and an unhealthy position to say the least.

IS COMPULSORY VACCINATION ETHICAL?

Foremost, healthcare, for that matter clinical practice, is guided by both law and ethics (Hazel Biggs, 2010). For purposes of education, it is imperative to state that, to consider an action as ethically right or

wrong, there is the need to make reference to some basic ethical perspectives in healthcare practice (Copp, 2006). Using deontology theory, the end result is not the focus but the act or action being taken (Heinzelmann, 2018). In essence, Deontologists are of the view that the rightness of an action does not depend primarily or entirely on the value of the consequences of that action (Timmermann, 2015), but rather on the action or intent of the action: whether good or bad. On the other hand is consequentialism or the consequentialist's perspective of ethics. With consequentialism, the effects of the vaccines administered are that on which premium is placed (Carlson, 1995). The intent to vaccinate may be a good one but if it yields negative consequences then it becomes problematic in the sight of the consequentialist (Sinnott-Armstrong, 2003). Explicitly, the primary focus of the consequentialist is the results that will be realized after vaccinating citizens (Darwall, 2002). Thus, experts are of the view that vaccinating citizens will reduce the level of COVID-19 infection (Gupta et al., 2021), which in turn is expected to lead to a reduction in COVID-19 related deaths and complications .

In addition to the above, another perspective of ethics in healthcare practice is "virtue ethics". It places emphasis on the character of a person or rests on the person of character (Crisp & Slote, 1997). There exists a strong relationship between patients and care professionals (Hall et al., 2015). It is on the basis of this perspective that healthcare professionals were among the first sect to have received the vaccines. This was a deliberate policy advocacy strategy. The idea is that, when health care professionals take the vaccine, because they are professionals, citizens will be encouraged to get vaccinated (Al-Amer et al., 2022) thereby helping the government to achieve its goal of "vaccination for all. Therefore, it is not right and not in the best interest of this country for people to advocate against compulsory vaccination by looking at only one side of the argument.

IS COMPULSORY VACCINATION LEGAL?

The World Health Organization at its thirteenth World Health Assembly on 25th April 1960 considered the issue of compulsory vaccination versus voluntary vaccination and concluded as follows:

“It is understandable, therefore, that it can be very difficult for the health authorities to adopt a position on this matter. It is all the more so in that to protect the community effectively from diphtheria and smallpox it is known that a sizeable proportion of the population - 70 per cent, or even more - must be immunized. Furthermore, it is essential that the immunity thus obtained should be consolidated by means of booster doses or re- vaccination. Now, to cover such a large proportion of the population there is no other solution but compulsory vaccination and or persuasion through an expensive campaign of health education” (WHO, 1960). In effect the World Health Organization approved of compulsory vaccination.

In Ghana, the Public Health Act, 2012 (ACT 851), part II (Vaccination), Section 22, subsection (1), gives power to the Minister of Health, through a legislative instrument (LI) to give orders to whoever the LI may be applicable to be vaccinated by the public vaccinator unless in cases where the public vaccinator is of the view that the vaccination could result in injury and dire consequences to the health of the populace. Apart from the reasons supra, all health workers and citizens if ordered by the Minister to be vaccinated, will have no choice than to be vaccinated. Sanctions will be visited upon any professional or citizen who fails to comply with the order according to Section 22; subsection (2). One may argue that the patient charter gives the patient a right, yes that is true, but such demands must be made within the right context. A Patient's right should not cause other citizens to be exposed to the virus. This position is supported by Chapter five (5), article twelve (12) section two (2) of the 1992 constitution. It does state that, “ every person in Ghana, whatever his race, place of origin, political opinion, color, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this chapter but subject to respect for the rights and freedoms of others and for public interest”.

The vaccination ACT 1919, CAP.76 also maintains in section 3 “Compulsory Vaccination” subsections (1) and (2) as follows: (1) The Minister may, by executive instrument, order generally or with reference to a particular area, district or place, or with respect to a particular class or classes of persons, that the persons to whom the instrument applies who do not produce satisfactory evidence of successful vaccination or of having suffered from smallpox shall be vaccinated by a public vaccinator, unless in the opinion of the public vaccinator vaccination would be injurious to health. (2) The instrument may prescribe at what age a person is liable to a penalty for non-compliance with the terms of the instrument, and who is liable in cases where the persons failing to be vaccinated have not attained that age.

From the above provisions of the vaccination ACT, it is clear that the ministry acting through its agencies is vested with powers to order for compulsory vaccination and also be able to visit sanctions upon whoever defies the order. Again, articles 31 and 32 of the 1992 Republican constitution, give room for the declaration of state of emergencies. This provision makes it possible for one to be “legally deprived” of the enjoyment of the fundamental human rights and freedoms enshrined in chapter five (5) of the 1992 constitution. This further means that, the President in consultation with the appropriate authorities could declare a state of emergency denying citizens of the freedom of movement among other rights and hence equally has the locus to operate through the ministry of health and the Ghana health services to institute measures such as compulsory vaccinations in times of natural disasters (with reference to Articles 31 and 32 of the 1992 constitution). Since the list of natural disasters under Article thirty (31) is in-exhaustive, natural disasters could be likened to this era of the COVID-19 pandemic. Of course, section 22 of Act 851 gives room for the use of discretion by the public vaccinator to administer the vaccine or otherwise. Logically the decision of a public vaccinator to determine the safety or otherwise of the vaccine must be based on science and empirical evidence. Checks conducted reveals that no adverse findings against vaccinating Ghanaians has been documented or known yet.

CONCLUSION:

When vaccination is not made compulsory, it is executed or rolled out poorly, people skip doses and it is administered in a haphazard manner resulting in an increase of disease incidence (Paschlau, 1950) . Why are tuberculosis patients isolated? Why are chicken or small pox patients isolated? This is to prevent others from being infected. Have the rights and freedoms of such patients being infringed upon, yes but to promote the common good of the society. For those who may like to use religious freedom as a lacuna to escape compulsory vaccination, many law courts in the United states of America have ruled contrary to this position and that Religion must not be used as a medium to be exempted from decisions arising from health legislations. The supreme court of the state of Florida ruled that “Religious freedom cannot be used as a cloak for any person with contagious or infectious disease to spread such disease because of his religion” (Tobey, 1954).

For the avoidance of doubt, the focus of this article is not on whether the COVID-19 vaccines are efficacious or not, but as to whether the government of Ghana has the mandate to embark on compulsory vaccination amidst COVID-19 pandemic. The World Health Organization at its thirteenth world health assembly on 25th April 1960 recommended compulsory vaccination. Chapter five (5), article twelve (12) section two (2) of the 1992 constitution makes it possible for citizens to enjoy their rights and freedoms but subject to respect for the rights and freedoms of others and for public interest”. The Public Health Act, 2012 (ACT 851), part II (Vaccination), Section 22, subsection (1), gives power to the Minister of Health, through a legislative instrument (LI) to order compulsory vaccination for public interest. The vaccination ACT 1919, CAP.76 in section 3, subsections (1) and (2) also give powers to minister of health to issue such directives. Again, articles 31 and 32 of the 1992 Republican constitution, give room for the declaration of state of emergencies making it possible for one to be “legally deprived” of the enjoyment of the fundamental human rights and freedoms enshrined in chapter five (5) of the 1992 constitution in times of natural disasters such as COVID-19. The above clearly demonstrates that government did not err in ordering compulsory vaccination.

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