

Who Should Call the Shots?

Proposing Federal Oversight of Mandatory Childhood Vaccinations

By Katherine Doris-Marie Tohanczyn

“In a democracy laws are not made to meet the predilections of individuals, nor to feed mistaken views which an individual might hold, when that view is detrimental to the people as a whole. Laws are made for the protection of all, and such laws are enforced even if the law is distasteful to some individual – yes, even if the law is hateful to some individual.”

Justice
Ruth Bader Ginsburg
Pursuit of Justice
Legal Writing
Competition
Winner

INTRODUCTION

The United States was founded on the principle of personal freedom, famously “secur[ing] the blessings of liberty” for generations. However, it is commonly accepted (albeit sometimes grudgingly) that this freedom is not absolute, as one’s exercise of personal freedom cannot infringe upon another citizen’s exercise of their own freedom. Federal and state governments are charged, not with determining whether citizens have freedoms, but rather with drawing boundaries and determining when one’s actions impede the rights of another. For example, America’s basic principles dictate that one should have the freedom to refuse to be vaccinated for any reason including, distrust in science or wish to avoid physical discomfort. At the same time, parents have the right to send their children to receive an education in a safe environment.

For over a century, state governments have attempted to toe the fine line between respecting a citizen’s decision to refuse a vaccine and protecting the public health. Despite consistent scientific advances in the area of vaccinations, the spread of infectious disease continues today and is likely to remain under the status quo. With that understanding, the

federal government is in a much better position than state governments to safeguard public health due to its superior financial and scientific resources and expertise.

This Article argues that the current system of excessive vaccination exemptions, coupled with inconsistent governmental standards and enforcement, inhibits public health goals associated with compulsory immunization. Part II discusses the development of current vaccination laws, including the three commonly accepted exemptions to vaccines. Part III examines the negative impact these exemptions have on the public health. Finally, Part IV urges the federal government to take action by setting stricter standards and influencing states to implement this program by tying it to federal funding for education.



For the complete essay go to www.philadelphiabar.org/WebObjects/PBAReadOnly.woa/Contents/WebServerResources/CMSResources/ginsburgessay15.pdf.

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