

Ethics and the Virus

1. Introduction

I suspect that the ethical problems that arise in connection with the virus will be different as time passes.¹ Some of them – for example, the issues posed by the particular vulnerability of some social groups to the virus – highlight more general issues which the current situation simply makes us aware of.² Others, however, are likely to be disclosed only over time, as we still have only limited knowledge of the virus and of the problems that it may bring.³ In this piece, I will offer some reflections on the situation as it seems to be, at the end of July 2021.

As things stand currently, the UK is in an interesting situation. For it has had a relatively high rate of vaccination, but at the same time is grappling with high levels of infection from the delta variant. As I write, the British Prime Minister has got rid of most restrictions in England. (Scotland, where I live, is in a different situation as decisions are here taken by a devolved government located in Edinburgh, and our Chief Minister is more cautious.) England is a bit like a canary in a coal mine: something the behaviour of which is to be watched, just because if dire things happen to it, this will show us just what the rest of us should not be doing.

The decisions concerning England might seem simply foolish – a view with which I would personally sympathise. But it was taken on three grounds.

First, the fact that so many people have been vaccinated – starting with the elderly and most vulnerable – means that the impact of widespread infection by the virus is limited. Initially, the virus was simply killing off the elderly, the fat, the medically vulnerable, and also those whose occupations gave them repeated exposure to the virus. It also placed many people in hospital, including in intensive care units. These were overwhelmed. In addition, this has led to a horrendous piling-up of untreated 'elective surgery' (such as hip replacements), and under-diagnosis and treatment of people with cancer. Now, however, as a result of the vaccinations, fewer people who are infected are ending up

in hospital, and fewer of those who are hospitalized are in intensive care.

Second, there was the problem of the economic impact of lockdowns. Many areas of the economy have been hit badly, despite various forms of government relief. For example, people are simply not travelling in the way in which they used to. Jobs have been lost in all areas of the travel industry, and in hospitality. In addition, if, say, people are not traveling to go on holiday, or are working from home, all the other businesses which depending on them being away from home have faced problems. There are all kinds of effects, right across the economy. The government has spent huge sums of borrowed money in trying to avoid people losing their positions, by paying a certain proportion of their salaries. But not only is there the problem of how this is eventually to be paid for, but the government is keen for the economy to get back to something like normal as quickly as possible.

An additional facet of this, is posed by arrangements which try to detect people who have been exposed to the virus, under which they are asked to remain at home for a period of quarantine. The system of trying to trace people has been expensive, and not particularly effective. (One issue has been that if people had to take time off work, they had to bear the cost of this themselves, which seems unjust – because they were being asked to do something for the public good, but at what could be a considerable cost to themselves, for which they were not compensated.) There are now 'apps' for smartphones which use Bluetooth to record if one has been close – and for a significant amount of time – to someone who then develops an infection. People are then automatically 'pinged' by their phone, which is an indication that they should stay at home until it is clear that they also are not infected. With the recent increase of infections, the result has been a 'pingdemic' of large numbers of people having to leave work and stay at home in quarantine.⁴ On the one side, there has been considerable dislocation of the economy as a consequence of people who have been 'pinged' staying at home. On the other, many younger people have simply been deleting the app which otherwise might ping them. The government has been trying to encourage people to quarantine, while at the same time suggesting that people in selected areas – in which the economy has started to be badly

hit – should, if they have already been vaccinated twice, be able to continue at work, provided that they pass a Covid test.

Third, there is a general problem about people feeling increasingly fed up about what seem to be never-ending restrictions, which prevent them from doing things that they enjoy and which play a significant role in their lives. This happens at both ends of the age spectrum. I am the local chairman of an organization of retired people. Our members meet in groups, typically once a month, to pursue all kinds of activities, from walking through table-tennis to tai chi, to playing the ukulele, to country dancing, to discussing history, current affairs, and fiction and non-fiction books. Some of these things can take place outside – not only the obvious ones, but a group concerned with the history and sociology of religion has even been meeting outside in my garden, which in a Scottish summer is in itself quite an act of faith! The problem, however, is that in a period of lockdown, groups cannot meet inside on a face-to-face basis. One might think: well, why not just meet on 'Zoom'. I have been encouraging this. But a lot of our members have just not taken to Zoom. In part, this is simply a generational matter, and a question of what skills one has.⁵ The cost of equipment and of an internet connection or smartphone subscription could also be significant for some people. But in part, also, it would seem as if, for many older people, there is simply no adequate substitute for face-to-face contact.

At the other end of the spectrum, some younger people have obviously been missing night-clubs, raves, pubs and so on very much. Some raves have been taking place illegally in warehouses.

Meeting this demand, and also the demand for other mass gatherings – such as at football matches – is also politically significant, and was surely a factor that influenced the English political decision.

2. Rights; Utility; Libertarianism

One significant issue in all this is the issue of rights and general social well-being or utility. In some ways this is almost an over-familiar matter; but I think that the Virus has thrown up new facets of it.

There are two kinds of issues here. On the one side, there are questions about the degree to which it is appropriate for people to suffer inconvenience, or more, for the sake of the well-being of others. This

clearly came up as a problem even in the early stages of the virus. Initially the effects of the virus on the young and healthy were only limited – but where its transmission to the elderly, the medically vulnerable, and to those who had extensive exposure to the virus, were devastating. On the other, there is the question of people’s freedom and their rights. There has been an undercurrent of protest against restrictions of any kind, especially by some people who describe themselves as ‘libertarian’.⁶

The issue of inconvenience for the sake of the well-being of others has arisen, especially, in debate about giving the vaccine to children. In the United States, the Pfizer-BioNTech COVID-19 vaccine has been approved for children over 12,⁷ and trials are currently taking place on younger children. This has been objected to, on the grounds that children typically do not suffer badly from the virus. But on the face of it there would seem to be three strong arguments for vaccinating them, unless significant problems about doing so are reported. First, while they may hitherto not have suffered badly, there is the risk that the delta variant might be more problematic for them.⁸ Second, there are reports – although research on the issue is currently ongoing – that children may face problems from ‘long covid’.⁹ Third, there is the issue of their possible role in spreading the virus to others.¹⁰ On the face of it, unless there is evidence that the vaccination is significantly harmful to children, there would seem to be a strong case for vaccination for the entire population. It would also bring with it the advantage that, if it were done, there would be less of a case for suspending children’s schooling – something that seems to have done significant harm to those from poorer backgrounds.

But what about rights and liberty?

3. A Sceptical Libertarian

If someone asked me my political views, I would – as a first cut – be inclined to describe myself as a libertarian. However, there are different ways in which this idea might be understood. I share, with all libertarians, a dislike of being told what to do. As someone who has studied political science, and thus know something about the realities of how governments work, I am suspicious of those who argue as if government could simply be expected to act in the interests of the

population, and incredulous of those who see government as being the obvious instrument by means of which their good (or not so good) ideas will be translated into public policy. I am all in favour of democracy in the limited sense of an ability for people to vote their governments out of power. But the current situation, of governments constantly chasing public opinion as festered on social media, seems to me to threaten to return us to the tyrannies that were 'democracies' in the ancient world.¹¹ While the power, within Western-style democracies, of lobbying, means that what government actually does seems, all too often, simply to track the concerns of powerful interest groups.

But to return to 'libertarianism', one view of this – which I broadly share – is that what is important is a market economy, the rule of law, an effective welfare system which operates in ways compatible with a market economy and the rule of law,¹² and the ability of individuals to choose, if they so wish, to form communities which impose more restrictive regulations upon them, because of the benefits which they think that these will bring. Another view is one which simply insists on individual liberty, often in the context of claims about rights.

It is this second view – either in an explicit or a visceral form – of which there has been a resurgence with the virus. In part, it expresses simply an understandable concern for freedom and for not being told what to do. In part, it relates to the idea that people should be free to act provided that they respect the rights of others. It is this latter point which, it seems to me, may in our current context be problematic. A key problem is: what are the rights of others which should be respected? This is, often, something that is understood in terms of our common-sense knowledge, or of what is traditional. But there are obvious enough problems here. For almost any innovation may produce consequences which others do not like, or which in some sense harms them. The problem is to determine whether or not their rights have been infringed.

Some people, here, think that we should simply be guided by the law. But, historically, the law has restricted all kinds of activities for what are, essentially, poor ideas about public policy. While, if we are dealing with an innovation, the law may simply be silent even if what is taking place may seem terrible. Others refer to ideas in political philosophy – for example, the idea that it is illegitimate to aggress against others.¹³ One

problem with this, however, is that what constitutes relevant aggression, or doing harm, to someone else may be a complicated issue. As David Freidman has argued,¹⁴ we emit carbon dioxide when we breathe; but carbon dioxide could be seen as a pollutant and contributor to global warming, and thus its emission a form of aggression! The issue, here, is that what it is and what it is not OK to do when it affects others, is a complicated business. While common-sense ideas about this may be perfectly adequate in particular times and places, when we encounter something new, or when there are developments in our (tentative and fallible) knowledge, these things may call for clarification by experts.

I was recently reading a remarkable novel about life in the early part of the Twentieth Century in a ship-building town, Clydebank, just to the west of Glasgow.¹⁵ At one point, someone in the story is depicted as working with asbestos, which was used as an insulating material in the building of ships. He and the other workers would come out of the shipyard, every day, white from head to toe from asbestos dust. The men would take their overalls home for their wives to wash. However, from the 1930s onwards the risks that asbestos was posing, and the effectiveness or otherwise of counter-measures gradually started to be appreciated.¹⁶ What should be obvious enough from this example, however, is that it was not obvious that asbestos was harmful, or what the character of that harm amounted to. The recognition of this – and, in consequence, what we now do and do not have a right to do with asbestos – was a product of the growth of expert knowledge, and of its social impact. That such knowledge plays a key role, seems to me a lesson the significance of which some libertarians tend to overlook.¹⁷

All this is of particular significance in respect of the virus. For a key issue here, in terms of public policy, is that we are in need of expert knowledge in this field, to explain what constitutes harm to others,¹⁸ and also discussion as to what the trade-offs between restrictions on individuals' freedom, and possible harm to others, should be. There would seem to me to be three aspects to all this.

The first, is that we need to recognise that the behaviour of the virus, and what does or does not impose harm on others of a kind which should serve to restrict our freedom, is not a matter for common-sense judgement. We also do not have traditions of dealing with this, which can sensibly guide us, either.¹⁹ As a result, this seems to me to be a

field where we have to be guided by expert opinion. This is of three kinds: medical and epidemiological opinion about the virus and its transmission (and also knowledge about human behaviour); ethical, knowledge about the acceptability of different kinds of trade-offs;²⁰ and, finally, knowledge about public policy. Such opinion, however, is fallible; and in a sphere such as this, we are likely to be learning a lot quickly, and are likely to make a lot of mistakes. We also need to be able to convey how it is that our knowledge is fallible and is likely to be revised, yet at the same time represents our best current understanding of things, and why we needed to be guided by it.

The second, is that this needs to be put together in a way that is clear and intelligible, and packaged in ways which both make rational sense, and the basics of which can also be conveyed in simple terms. It would seem to me, however, that there would be a strong argument for forming a political coalition for the administration of (just) this – just on the grounds that the material is not something concerning which there seems to be any rationale for purely political advantage.

Third, however, it would seem to me essential that what is taking place, and why, be given high exposure on media, and that a good bit of time be allowed, every night, on national television, both to discussion of the science, and the ethics and public policy issues, but also for ordinary people to be able to phone in to ask questions and raise objections. This would serve to convey the appropriate status of this material as being a rational consensus but with continuing discussion and dissent. It would also serve to legitimate what is taking place, in the sense that, if people don't understand, or have worries or objections, they would have the chance to have these addressed.

The format for such arrangements would be a matter for discussion. But there would seem to me to be an argument for having the 'phone in' element of it moderated, so that people could be assisted to put their points in a clear and cogent manner. It would also seem to me desirable if social media discussion could be focussed on the clarification of issues to be raised in such a setting – so that it moves away from what people feel about things, to the presenting of their views in a context in which dialogue can take place. People who represent particular perspectives which emerge in such a context, could be asked to appear on the appropriate television programmes to discuss issues in

a moderated and constructive way, rather than in programmes which get audience numbers simply by encouraging people to shout at one another.

4. Vaccine Socialism

After raising some problems for some libertarians here, I will conclude by addressing a virus-related issue which has been repeatedly raised but – at least, so it seems to me – not properly discussed. I am clearly aware that I might simply be wrong about this, but I think that the case needs to be made. It relates to what I will call 'vaccine socialism'.

The argument is this. Some of the more affluent countries have ordered more vaccine than they can actually use. But other countries have very little. Not only is this unfair, but it would be to the advantage of those in the richer countries to share the vaccine round. For just because the world is so inter-connected, while there are any areas without vaccines, there is a risk to everyone from the development of variants.

This argument seems to me to be badly faulty.

At one level, there is, in my view, a humanitarian duty to put considerable resources into the large-scale manufacture of vaccines, so that they can, indeed, be supplied to everyone. We also need to assist people, so that vaccines can be distributed, effectively, everywhere (while there are also problems about convincing people as to their acceptability). It is also the case that we are all at risk from the development of variants.²¹ But there would seem to me to be three problems about what I have called the vaccine socialist argument.

The first is that large orders were initially placed for vaccines, by some countries, at a point when it was not known which of them would be effective. They have made it clear that, should they not be needed, they will be made available to others. In addition, it is not clear that richer countries currently have sufficient vaccine to meet their own needs; not least if a decision is made to go for as near as can be achieved to 100% vaccination rates. This will be especially true if pressure is put on people to be vaccinated. Citizens, there, can also reasonably say that, as they are paying for the vaccines, they should, other things being equal, have their needs met first. In addition, it seems, currently not clear²² just how long vaccine-induced immunity will

last, whether booster shots will be needed, and how effective immunity from the vaccine will be against new variants. All this suggests the need for adequate supplies.

The second, is that it is not clear what the redistribution of existing stocks of vaccine would achieve. There may be a case for offering high priority to medical workers, worldwide. But just who would qualify, and how one avoids the vaccines going instead to powerful non-medical people, is an issue. More significant, however, is this. A statement recently reported in **Nature**, attributed to researchers from the International Monetary Fund in Washington D.C., the following statement:²³

Around 11 billion doses are needed to fully vaccinate 70% of the world's population against COVID-19. As of 4 July, 3.2 billion doses had been administered. At the current vaccination rate, this will increase to around six billion doses by the end of the year

But this indicates an **absolute** shortage of vaccines, and also does not address the problem of the logistics of their delivery. It would seem to me that until there is an **absolute surplus** of vaccines, **and** problems about the logistics of their delivery and their cultural acceptability have been addressed, the virus will be with us, and variants will develop. If this is right, the argument from variants to the need for the redistribution of existing vaccines seems to me to be incorrect. For even if there was redistribution of all that was currently available, this would not address the harm from new variants problem.

As things stand, arguments from inequity seem also just to be wrong. It is clear enough – from the rise of peaks of variant-driven infections, even in countries in which there is a high level of vaccination – that any government that did not press for as extensive a level of vaccination as it was medically advised to do, would be failing in its duties to its citizens. (One need, here, also to bear in mind that vaccines do not themselves convey 100% immunity, so there are risks even to those fully vaccinated if there is a significant level of infection around them.) If people are paying for vaccines and there is a need for them, and they are able to make productive use of them, then it is not clear that their government should be obliged to divert them to other people.

Suppose that we were, instead, of our actual situation, dealing with something that was funded and administered on a world-wide basis. Supposing that we had a good idea what we were doing and how best to do it, and also knew how to administer the vaccine effectively everywhere. There might, then, be a strong argument for administering vaccines on the basis of what would be most effective for the world-wide control of the pandemic. But we are not – and it is not clear that we could move at all easily to – in such a situation. And it is not obvious that if this were done, if the vaccine were used on this basis, the result would be would be 'equitable'. For the argument which I have just presented is utilitarian rather than egalitarian in its character: the vaccine would go to where it would do the most good. 'The inequitable distribution of vaccines has allowed the virus to continue spreading', WHO chief scientist Soumya Swaminathan has been quoted as saying.²⁴ I have here argued that while in principle an argument could be made for the worldwide utilization of vaccines on the basis of where this would be most effective, it is not clear if we could easily move to such arrangements, and that, if we could, there is no reason to suppose that their distribution would fit vaccine socialists' ideas about what is 'equitable'.

Accordingly, I think that some libertarians, and also vaccine socialists, have got it wrong, while admitting that there is a case in principle for vaccine utilitarianism – if not one which we can expect could be acted on under our current institutional arrangements.

¹ When, earlier, I almost completed a piece on this topic, I was dealing with issues very different from those about which I am writing now.

² At the same time, we should, I think, resist the temptation simply to see what is taking place as a source of easy confirmations of our prejudices: things may be more complex than we initially suspect, or, even when they are fairly clear, may not be at all easy to remedy.

³ I am not claiming, here, that new moral ideas will be being discovered, so much as that concrete moral issues may confront us in striking ways. I will spare readers, on the present occasion, my views about the character of moral philosophy!

⁴ An epidemic of ping-pong: a new word formed by reference to the 'ping-pong' of mobile phone apps, and 'epidemic'.

⁵ I can sympathise with this. While I have one, I detest mobile phones, and use mine only as a phone or if I really have to, to answer texts. (My reaction, along the lines of the apocryphal old lady's objection to flying – that God had given us the trains – is: Why on Earth would anyone wish to send texts, when God has given us e-mail and proper keyboards on which to compose them! If the response is: but mobile phones are easier, I would respond 'for young people with nimble fingers', and note that the development of mobile phones has limited the development of portable laptops or even desktops with fully integrated phone functions.

⁶ As will be clear from what I write later, I am sceptical about such attitudes as interpretations of libertarianism.

⁷ See, for example <https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/covid-19-vaccines-for-kids/art-20513332>

⁸ See, for example <https://www.nbcnews.com/news/us-news/delta-variant-spreads-medical-experts-warn-risk-young-children-n1274126>

⁹ See, for example <https://www.nature.com/articles/d41586-021-01935-7>

¹⁰ A useful recent overview of issues concerning the virus and children is: <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/transmission-k-12-schools.html>

¹¹ The big issue, e.g. in Classical Greece, was that citizens tended to think that their immediate opinion – often shaped by rabble-rousers – should dictate the policy of the state, and that they were sceptical about the idea that there was a need for constitutional limitations on their powers.

¹² This is very much in line with Friedrich Hayek's ideas: I would commend my edition of his **Law, Legislation and Liberty** which should be available this October.

¹³ For an interesting discussion of this, see Matt Zwolinski, 'The Libertarian Nonaggression Principle', **Social Philosophy & Policy** 32, Issue 2, (Spring 2016), pp. 62-90.

¹⁴ David Friedman, **The Machinery of Freedom: Guide to Radical Capitalism**, 2nd ed. (La Salle, IL: Open Court, 1989), p. 168. See the discussion in Zwolinski, p. 81.

¹⁵ Meg Henderson, **The Holy City**, London: Flamingo, 1998.

¹⁶ See P W J Bartrip, 'History of asbestos related disease', **Postgraduate Medical Journal** 80, issue 940, available at: <https://pmj.bmj.com/content/80/940/72>

¹⁷ See also on this my 'Plato's Revenge'.

¹⁸ Clearly in a country with socialized medicine, such as the UK, harm to myself which has to be remedied at public expense, must also be counted as imposing harm on others.

¹⁹ It would seem as if some problems in public policy were initially caused by treating the virus as if it behaved just like influenza.

²⁰ While the field of ethics is characterized by ongoing debate, for policy purposes we can look at those practical issues about which there is a good measure of agreement (as, for example, one gets in provisional codifications of medical ethics), while trade-offs have been long-explored in such areas as policy on the restriction of traffic speed to cut down on accidents, or decisions as to whether or not to put barriers between traffic going in opposite directions, on motorways. See also Adam Rogers, 'How Much Is a Human Life Actually Worth?', **Wired** 05.11.2020: <https://www.wired.com/story/how-much-is-human-life-worth-in-dollars/>

²¹ Although whether the virus will continue to be as problematic, over time, is an interesting question. See, on this, Ben Spencer, 'Cheer Up, Covid is losing its Grip', <https://www.thetimes.co.uk/article/cheer-up-covid-is-losing-its-grip-zsxrk2w26>, in which some experts are referred to as suggesting suggest that covid might, like some other initially devastating viruses, become less virulent over time.

²² See Chris Baraniuk, 'How long does covid-19 immunity last?', **BMJ** 2021; 373 (Published 30 June 2021): <https://www.bmj.com/content/373/bmj.n1605>

²³ 'COVID vaccines to reach poorest countries in 2023 — despite recent pledges', **Nature**, 5th July 2021; (= **Nature** 595, pp. 342-343 (2021)); <https://www.nature.com/articles/d41586-021-01762-w>

²⁴ See the paper quoted in note 20.