

Justifying Lockdown

ethicsandinternationalaffairs.org/2020/justifying-lockdown/

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May 22, 2020

EIA | Ethics &
International Affairs

CARNEGIE COUNCIL



Anti-lockdown protest at the Governor's Residence in St Paul, Minnesota. Photo credit: Lorie Shaull via [Wikimedia Commons](#)

Throughout most of the world, significant restrictions have been placed on freedoms to move about, to associate in public, and to be in many public spaces. These practices are often collectively referred to as “lockdown.” Few of us enjoy lockdown, and a small minority is furiously protesting against it. In the United States, which currently has many more COVID-19 infections than any other country in the world, some protestors have been gathering to call for these lockdowns to end, and for a return to work.¹ And in most places governments are indeed beginning to relax, to varying degrees, the very substantial restrictions that lockdown has involved.

For many, a first reaction to the protests was shock at how reckless they seemed, given the continued prevalence of the virus there.² There are clear and legitimate concerns about whether the relaxation of lockdown restrictions is premature in the United States and many other parts of the world. But the question such protestors and others are raising—how the often very significant costs that are being coercively imposed upon populations can be justified—is a sensible one that deserves a reasoned response. Without such a response, we will not be able to think clearly about the conditions under

which relaxing these restrictions is justified, or about when, should things take a turn for the worse, they should be reinstated. Our aim in this brief essay is not to defend a particular policy or attitude toward lockdown measures in the United States or elsewhere, but to consider the scope and limits of different types of arguments that can be offered for them. Understanding the complexity of these issues will, we hope, go some way to helping us understand each other and our attitudes toward state responses to the pandemic.

What arguments can be presented for why, given the significant costs a lockdown may impose, it can nevertheless be required? The first thing to note is that, while there is no doubt that COVID-19 will get us all if it can, it is equally clear that its effects vary significantly across individuals—some of those infected will have only relatively mild symptoms or show no symptoms at all, while for others it will result in severe respiratory problems or be fatal. But, to be effective, any measures taken to combat a pandemic impose costs on us all—whether it is wearing a mask when you go out, running an app that potentially undermines your privacy, working from home or, indeed, not being able to work at all. So the question, more precisely, is this: under what circumstances can some people be expected, even compelled, to bear costs for the sake of others? Philosophy offers two broad toolkits to draw on to answer this question: one focused on moral philosophy and what we owe to each other; the other focused on political philosophy and the design of just institutions and social structures. Here we consider only the arguments from moral philosophy. We think there are three main kinds.

In Our Best Interest? The Paternalistic Argument

The first argument is that, while the actual benefits and burdens of lockdown will fall differently on different people, when we consider them in prospect—from the beginning, without knowing for sure what will happen—any given person stands to benefit from the policy. In other words, the risks of alternatives to lockdown, for a given person, are greater than the risks of lockdown itself. We might then argue that it is permissible to oblige people to remain at home, or to use a privacy-invading tracking app, or to wear a mask outside the home, on the grounds that the expected benefit to them of doing so outweighs the expected cost to them. This is one argument for policies such as mandatory vaccination: for each person, the risks of receiving the vaccine are less than those of forgoing it, even though there are a few people who may be made worse off through an adverse reaction to the vaccine.

This type of argument is fundamentally paternalistic—we (the government) can force you to do something because it is in your prospective interest to do so. The paternalistic argument is consistent with the fact that some people—including the elderly, those with underlying health conditions, and health workers—may stand to benefit even more, *ex ante*, than, for example, young and healthy people working in businesses that are deemed “nonessential.” This might be justified on the grounds that we should, for example, give the most vulnerable extra weight in our deliberations. Or it might be remedied by seeking to ensure that more of the expected costs fall on those who are

expected to benefit more, while offsetting the costs to those that benefit least.

The paternalistic argument for lockdown has two premises. Its first, empirical, premise is that it is indeed in the interest of each person to be compelled to restrict their activities via lockdown. Its second, moral, premise is that when restricting people is in their best interest, we are permitted to do so. Both of these premises can be contested.

It is possible that many young people have relatively little to fear from COVID-19, but face very real costs from the lockdown. Indeed, unlike in the case of mandatory vaccination, there simply do not exist clear models of how communities will fare with and without lockdown measures that we can use to claim with sufficient confidence that all will be made better off, in prospect, relative to alternatives. The moral premise can be challenged because it sits uneasily with other values, such as commitment to individual freedom. After all, if one *wants* to run the risk of continuing to go to work, even though it may exceed the risk of remaining at home, then on what grounds should others, or the state, override his or her free choice? Indeed, this is precisely the argument that many of the protesters are making.

Note, also, that for the paternalistic argument to hold, not only must the proposed restrictions actually achieve the stated prospective benefits but they must also be *necessary* to achieving them. If we could attain these benefits by exiting lockdown to some degree, then these restrictions would no longer be justified. However, even if it would once have been possible to achieve these benefits without lockdown—for example by using more targeted measures such as widespread testing, tracing, and isolation—that option may now be off the table. What is possible and necessary to minimize the risks of COVID-19 at any given moment will depend on what has been done previously.

Our Willingness to Bear Costs for Others: The Altruistic Argument

The second argument appeals to our altruism—our willingness to bear costs for the good of others—rather than to prudential concern for how to promote our own interests. There are two key variants of this argument. The first says that some should bear costs for the sake of others whenever that is the best way to reduce the overall costs borne. This assumes a pretty demanding form of altruism, where each of us views costs borne by everyone else as weighing just the same as the costs to ourselves. Most of us are not quite so altruistic. And we might sensibly question whether such costs can be coercively imposed on us, even if we were inclined to assume them voluntarily. The second, weaker version of this argument is that it is okay for some to bear some costs for the sake of realizing much greater benefits for others. So, while the costs of lockdown for some people are no doubt substantial, they pale in comparison (one could argue) with the costs to others of allowing the pandemic to spread unchecked. (New York Governor Andrew Cuomo made this argument.)

This second variant of the second argument is hard to argue against when it comes to at least some measures, such as apps supporting contact tracing, which are not particularly burdensome. For most people, the privacy costs of using any particular app

are going to be relatively small. So surely one could be required to bear a cost as negligible as that if the use of the app has the (even relatively slim) prospect of saving lives. But, of course, for some people the costs that lockdown imposes may far exceed the privacy costs of using an app and, when they do, the force of this argument is correspondingly diminished.

As we have seen, this argument does not depend on an appeal to individual prudence. So, unlike the paternalistic argument, it cannot plausibly be defeated if people decide for themselves to reject the prospective benefits of lockdown. It does involve a substantial moral commitment—the idea that one person can be morally required to bear costs in order to help others at risk of serious harm. The authors endorse this moral commitment. But we recognize that it is controversial and that many will not accept it (including, clearly, some who are currently protesting the lockdowns in the United States). Yet even if this commitment is accepted, the force of this argument will continue to weaken as the costs that some people must bear increase relative to the benefits conferred on others.

“Don’t Tread On Me:” The Argument for Preventing Excessive Harm

The first argument justified lockdown by appealing to each person’s best interest. The second argument appealed instead to their altruistic concern for others. The third argument relates to the limits of what we can do to others. It posits that governments can limit people’s freedoms when necessary to prevent them from imposing excessive risk of harm on others. (The philosopher Helen Frowe has recently made this argument.) This kind of argument is common: it underlies prohibitions on speeding, or on selling unlicensed medicines or unpasteurized milk, and so on. Many of the U.S. activists protesting stay-at-home orders seem to endorse a “don’t tread on me” ethos. This third argument offers a twist on that ethos, essentially saying that the government *can* “tread” on you (in this case, making you stay home) so that you do not go treading on others.

This sort of argument is most forceful when the risks that one is prevented from imposing are significant, and the associated costs are relatively modest. So how great are the risks? Suppose we want to know whether continued stay-at-home orders are justified. We would have to ask, for each person, how much more likely it is that they would catch COVID-19 should they not remain at home, and how likely it is that they would pass it on, and to how many people. Then, when we know how many subsequent cases of the disease could be traced back to this person’s infection, we would have to figure out the likely outcomes for those patients.

Determining the risks attached to being infected with COVID-19 is very difficult. For one, we do not currently know how many people have been infected with the virus. We know that a substantial number of those *confirmed* to have COVID-19 need hospitalization, and that, although the case mortality rate (the number of those confirmed to have COVID-19 who die) varies widely across countries, it is quite high in some places, including in the United States where it is currently 5.98 percent.³ In the

absence of stay-at-home orders, as well as an adequate regime of testing, tracking and isolating, it seems likely that the disease will return to what appears to be its stable reproduction rate: that is, each person will, on average, infect two to three others. They, in turn, will infect another two to three people until the chain of transmission is broken. Hence, it is not unduly alarmist to say that if one individual infects a couple of other people directly, he or she would be indirectly responsible for a great many subsequent infections, with a pretty good chance that some of those will be hospitalized, or die. The risks that we impose if we infect others with COVID-19 are thus very high. And, if the virus continues its path unabated, the probability that your carelessness will lead to someone dying of COVID-19 is also high. So, by keeping people at home we are preventing them from imposing a very significant risk on others.

Although this is an appealingly simple argument, with a strong connection to the “Harm Principle” at the heart of modern liberalism (that the state should interfere only to prevent us harming others), there are some interesting objections that require further thought. First, the probability that you will cause *any particular person’s* death remains very low. One question that philosophers have not yet adequately answered is whether we should care more about the net total risk imposed on others or about the risk imposed on each particular person. Second, one might argue that if Person A infects Person B, and Person B infects Person C, then A is not responsible for C’s infection to the same degree as she is responsible for B’s. Perhaps the longer the causal chain between A and whoever ends up having an adverse reaction to COVID-19, the less the harm they suffer should count against A’s moral balance sheet. Third, if everyone else is refusing to self-isolate, then one’s own contribution to the causal chain might be irrelevant: that is, if A does not infect B and thus B does not infect C, perhaps Person D will infect B, who will then infect C—that is, everyone will end up getting the disease anyway, so why should A be held to account for his part in it? Finally, one could argue that it is possible for any given individual to protect themselves from risk, by strictly limiting the contacts they have with others. Could not one say, then, that everyone who goes out into the world voluntarily assumes the resulting risk, and that in cases where risk-imposition is mutual, it is permissible?

We think that the most plausible resolution to these open questions is that, while the risk you expose each individual to does matter, the net overall risk is also very important. At the end of the day, if you knew that your action would kill one person out of a hundred, you would not (or should not) care much that you do not know which of the hundred people you expose to risk it will eventually be—simply knowing that one person will be killed should make you reconsider your action. And while we do think that the intervening agency of others can reduce your accountability for secondary and tertiary transmissions, what matters most here is foreseeability. If the chain of transmissions can be stopped by staying home, then it does not much matter whether that chain would involve other people’s voluntary choices. Third, although there is definitely a collective action problem here, that does not get us off the hook. If we cannot control the behavior of others, we can at least signal a willingness to cooperate and work together for the best overall outcome. Certainly, actively advertising a

willingness to undermine our collective defense, by protesting against lockdown, would be wrong. Lastly, if it was possible to avoid exposure to risk without the cooperation of others, then the argument from reciprocity might work. But it clearly is not: most people, especially the most disadvantaged and vulnerable, simply cannot unilaterally protect themselves from risk.

It seems clear that when COVID-19 is prevalent, lockdown substantially reduces the risk that you as an individual will cause severe harm to other people, and that this can give you a strong reason to endure the costs that lockdown involves. But much still depends on how severe those costs are. The least we can say is that you are plausibly required to bear a much greater cost to avoid imposing severe risks of harm on others, than you are in order to benefit them (the second argument).

The three arguments we have outlined above are distinct, but they are also compatible with one another. It should be clear that none of them provides a decisive reason for continuing lockdown in the absence of a vaccine, and all of them depend on empirical premises that we have not supported here. The application of each argument depends crucially on contextual factors. In particular, we need to recall the perspective of political philosophy, and note that the costs weighed against the reduced risk, in each case, are not a fixed quantity. In a just society the costs of lockdown will be fairly shared so that they are borne by those best able to do so, and will be unduly burdensome for nobody. And where costs are unavoidable, they can potentially be offset by other means—for example by planning a recovery that puts young people at the center of the economy, or repays the debt to the young by taking real action on climate change. In an unjust society, without adequate redistributive institutions, the individual costs of lockdown will be much higher for the most disadvantaged. However, they are also likely to bear the greatest costs from lifting lockdown as well. In such circumstances the amount of cost that the advantaged can be required to bear can clearly increase, to make up for the injustice of the society from which they benefit. So arguments from billionaires to end the lockdown because it constrains their freedom are particularly ill-judged.

Paul Ramsey said, of the ethics of war, “what justifies, limits.”⁴ The same is true for the measures taken to address the COVID-19 pandemic. By looking at these arguments to justify the imposition of costs on all for the benefit of some, we can determine the limits of those cost impositions. Now that national and local governments around the world are emerging from lockdown and starting to consider other, less invasive measures for controlling the pandemic, the key question they need to ask is whether we have reached these limits. Some have presented our plight in these epoch-defining times as being a grand trolley problem—do you sacrifice the young for the sake of the old, or the old for the sake of the economy. There are unavoidable costs to bear, and someone must bear them. But to view the justification of lockdown—and its ending—in this way is to ignore our moral agency, both in diminishing the overall costs that will have to be borne, and the fact that, at the end of the day, the virus can spread only if we spread it to one another.

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