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## A THOMSONIAN ARGUMENT AGAINST MEDICAL MANDATES

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Tuba (photo by author)

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## ABSTRACT

This paper explores the parallel between Judith Jarvis Thomson's argument for abortion rights based on bodily autonomy and the contentious issue of vaccine refusal. Drawing on Thomson's famous thought experiment involving a violinist, I present analogous scenarios involving medical decisions. I argue that if Thomson's reasoning holds, individuals also possess the right to refuse vaccines, even if it entails serious risk to others. The paper underscores the importance of recognizing that medical decisions, including vaccine refusal, should be evaluated within the framework of bodily autonomy and individual rights, challenging the prevailing opinion on this complex issue.

**Keywords:** Bodily Autonomy; Medical Mandates; Medical Ethics; Vaccine Refusal; The Violinist; Reproductive Rights; Judith Jarvis Thomson

### Introduction

Judith Jarvis Thomson has famously argued that the right to bodily autonomy is strong enough that abortion may be permissible, even if the fetus is a person. In what follows, I will argue that, insofar as we share her intuitions about reproductive rights, we ought to support the right of individuals to refuse vaccines.<sup>2</sup> I will first review Thomson's argument, I will then present two thought experiments that bear a relevant analogy to Thomson's thought experiment and to vaccine refusal. I argue that my cases and Thomson's are analogous and must stand or fall together.

### The Violinist

In her paper, *In Defense of Abortion*, Thomson argues that a common pro-life argument, even when granted the premise that the fetus is a person, still fails. She argues that although everyone has a right to life, "having a right to life does not guarantee having either a right to

be given the use of or a right to be allowed continued use of another person's body—even if one needs it for life itself.”<sup>3</sup> In her famous thought experiment, you awaken one day, surprised to find a violinist has been attached to your body in such a way that detaching him will lead to his certain death. It seems unreasonable to suppose that you are morally obliged to continue living in such a state perpetually or that anyone should compel you to do so. The intuition in this case, is that the violinist has no right to your body and that, in detaching the violinist, you have not acted unjustly toward him. Thomson concedes that there are circumstances in which one ‘ought’, in some sense, to allow the violinist to continue using your body. Suppose that he only needs an hour, and that the whole process will be relatively painless for you. Thomson believes that in a case like this, it is the decent, moral thing to do, to allow the violinist to remain connected.<sup>4</sup> She denies, however, that this sense of ‘ought’ entails a right to the continued use of your body. This notion of ought depends very much on our particular circumstances, and Thomson believes rights can't be so dependent on happenstance. Your right is my obligation, and my obligation to you shouldn't depend on how difficult it is for me to meet it. She says, “It's rather a shocking idea that anyone's rights should fade away and disappear as it gets harder and harder to accord them to him.”<sup>5</sup>

### **The Tubed Tubist**

In this section I want to tweak the thought experiment. My aim is to show that it doesn't seem to make any sort of moral difference in this sort of case, whether one exercises one's bodily autonomy by detaching someone from it, or by refusing to ingest a substance.

In this case, as in Thomson's, I awake to find myself attached to the world's greatest tubist (tuba player) and am reliably informed that having him removed will kill him. Having read Thomson's paper, I am convinced that I have no moral obligation to remain attached to him in perpetuity, but, after a rousing Tuba solo, I find myself charmed to no end, and can't bear the thought of going on without him. I decide that I will remain attached. The tubist's luck takes a turn for the worse when it

is found that he has a rare condition and needs a medication. He cannot take the medication. It must be processed first by my kidneys and then passed on to him via the tubes that connect the tubist. The medication must be applied rectally, on the hour, and causes 45 minutes of severe pain. As someone with an aversion both to rectal medication and to severe pain, I begin to have second thoughts. As much as I've come to love the tubist, I feel I cannot carry on in this situation.

It would be very odd to say that it is morally impermissible to refuse the medication, but it is morally permissible to have the tubist removed. Whether I refuse the medication or cut the tubes, the result is the same-the tubist will die. The Thomsonian point is that the tubist has no right over my body. In both cases, I am permitted to exercise a right over my body, either by having him removed, or by refusing a medication. In both cases, I know that this will lead to his death. In both cases I have committed no injustice toward him. If the right to bodily autonomy is strong enough to permit me to have the tubist removed, then it is also strong enough that I may refuse the treatment.

### **The Untubed Tubist**

Let's take the thought experiment one step further, so that the Tubist is not connected to me at all. Suppose I am reliably informed that my body possesses the unique ability to process a chemical into a lifesaving compound. I am further informed that there is a famous tubist that will surely die unless I allow doctors to administer the medication and then produce the treatment with my blood. The compound produced from my blood suppresses a rapidly growing brain tumor and without it, the tumor will kill him within the hour. The medication causes severe boils, migraines and a bewildering love for post modernism. Do I have an obligation to take the medication? If we agreed with Thomson that the "...right to life does not guarantee ... a right to ... the use of ... another person's body-even if one needs it for life itself."<sup>6</sup> and if we agreed with the case of the tubed tubist, then it seems we should say no. It makes no difference to the morality of the case if the use of someone else's body

requires them to be attached to you via tubes or to take a medication. Denying someone the use of your body, even if you know that it will lead to their death, does not necessarily entail an injustice toward that person.

Now, just like Thomson, we can imagine less serious cases. Perhaps the medicine only causes mild discomfort and presents a very low risk. Perhaps it causes me only psychological distress because it is against my religion, or because I do not trust the people manufacturing it, or because I'm a young black rights activist who has been lately ruminating on the Tuskegee experiments (Assume even, that I'm wrong on all these points, if you like.) If we agree with Thomson's argument that detaching the violinist is not immoral, then surely we must also agree that refusing the medicine is not immoral. It may be that refusing the medication is failing to do something you ought to do. It may be that you have acted in an ignorant or self-centered way, but you have not violated anyone's rights. No injustice has been done.

## **Conclusion**

Obviously, the case of the violinist is meant to be directly analogous to abortion. Thomson is responding to the argument that a mother must concede her bodily autonomy because it conflicts with the right of the fetus to live. The moral intuition that she is not obligated to remain attached to the violinist is taken to show that a woman is not obligated to remain attached to a fetus. Furthermore, no one can have the right to coerce the mother to remain attached to the fetus, because such coercion could only be justified if the mother were violating the rights of the fetus.

Likewise, we have arrived at a thought experiment that is analogous to vaccine refusal. It is often said that the anti-vaxxer, by refusing a vaccine, has acted immorally, by putting others at risk. It is thought that she must concede her bodily autonomy because others have the right not to be placed in harm's way. If Thomson's argument is successful, she has shown that it is sometimes morally permissible to exercise bodily autonomy in a way that one knows will lead to the death of an innocent person. But surely if this is the case, it must also sometimes be permissible

to exercise one's bodily autonomy in a way that poses some risk to another person. If we believe that Thomson's paper shows that abortion can be permissible even though a fetus has a right to life, then we must also, as a consequence, believe that people can have the right to refuse vaccines, even if their doing so poses a significant risk to others. It does not follow from the mere fact that one's medical decision poses a risk to another person, that the decision is immoral. Furthermore, no one has the right to coerce the antivaxxer into taking vaccines, because such coercion could only be justified if the anti-vaxxer were violating the rights of others.

Of course, neither Thomson nor myself are trying to say that any old thing I can do with my body is acceptable, no matter who it hurts. Intuitively, there is something morally special about the control we possess over some very fundamental aspects of our body, what we put into it, or choose to have taken out of it, etc.<sup>7</sup> It is not always easy to draw clear lines between acceptable and unacceptable uses of one's property in this regard and any detailed discussion of the matter is beyond the scope of this paper. My goal is only to show the important parallel of abortion and vaccine refusal. It is possible to take this argument, or any argument for that matter, as a *reductio*. Perhaps the best response here is to reject Thomson's original argument. The point is only that the two arguments must stand or fall together. So far as the Thomsonian argument is concerned, the right to choose must extend to vaccines as well as abortions, and with the same strength.

This is an important point that seems not to have been widely acknowledged. The discourse, at both the popular and the scholarly level, seems often to proceed as if it were obvious that either one has no right to refuse vaccines, or that this right is easily outweighed by any risk to the greater good. Peter Singer, for example, mocks the notion of personal autonomy with regard to vaccines, and attempts to justify mandates by an appeal to both paternalism and the greater good. In speaking of an athlete who refused the COVID vaccine, he says:

The only “personal choice” Ellison should have had was to get vaccinated or stay at home. If the International Olympic Committee had said that only vaccinated athletes can compete, that would have freed thousands of athletes from a heightened risk of infection, and would have justified overriding Ellison’s desire to compete without being vaccinated.<sup>8</sup>

One wonders, however, if Singer and other pro-choice ethicists would speak so cavalierly about violating a woman’s right to abortion, if the shoe were on the other foot. If, for example, abortion turned out to pose a significant risk to the patient’s health, or to society more generally, as is often argued in the pro-life literature, would Singer be so quick to endorse coercing women and doctors? Would he feel the argument was so easy, and needed so little defense?<sup>9</sup>

Of course, it is worth noting an important asymmetry here. It is possible that the consequences of abortion are much less severe than the consequences of vaccine refusal. An abortion may kill one person per abortion, while each vaccine refusal, arguably, could kill or contribute to killing many people. I doubt that Thomson would have supported a ban on aborting twins or triplets, but I’m sure that we could come up with some apocalyptic scenario for which she would have supported banning an abortion. Consider, for example, some strange case in which the entire world depends on violating a woman’s bodily autonomy, and forcing her to carry a baby to term. In such a case, most people would say that the right should be violated. But this is only to say that rights are not absolute, which is certainly not a new or peculiar view. In such an extreme situation, in a situation where an appropriate response to an unusual emergency requires the violation of a right, we generally accept that there is a severe burden of proof. It must be demonstrated that the negative consequences outweigh the right and that there is no other plausible way to avoid the consequences except by violating the right. Even then, many people are leery to proceed, in part because of the sanctity of the right and in part because of the well-known consequences

of violating rights on behalf of consequences.

The point is that discourse around vaccine mandates has often neglected to take into account the *strength* of the right to bodily autonomy and the seriousness of violating it. If the bodily autonomy of the anti-vaxxer were held in the same regard as Thomson holds a woman's right to abortion, it would greatly impact the nature, tone, structure, and possibly the outcome of such debates.

## ENDNOTES

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<sup>2</sup> Or any other medical intervention for that matter.

<sup>3</sup> Judith Jarvis Thomson, "A Defense of Abortion," *Philosophy & Public Affairs* 1, no.1 (1971): 56.

<sup>4</sup> *Ibid.*, 60.

<sup>5</sup> *Ibid.*, 61.

<sup>6</sup> Thomson, *ibid.*, 56.

<sup>7</sup> Michael Kowalik believes that, at least some of this moral specialness can be cashed out in terms of human agency and the "ownership of our innate biological characteristics...". (Kowalik 2021, 1) He says, "... a) all human actions and social norms presuppose a commitment to the value of human agency - to reject this premise would be self-defeating [7]; b) body-autonomy is one of the constitutive conditions of human agency; c) it entails exclusive ownership of our innate biological characteristics (these are constitutive of the kind of being we inherently are); d) discrimination on the basis of innate biological characteristics negates the value of human agency and is *therefore* unethical." Furthermore, "...e) mandatory vaccination involves a range of discriminatory measures intended to augment the natural state of our immune system; f) the natural state of our immune system is an innate and healthy biological characteristic of every human; g) mandatory vaccination discriminates against innate and healthy biological characteristics; *therefore*, h) mandatory vaccination of humans is unethical.iii"(2021, 5) Although I think this is an interesting idea that deserves much further consideration, I'm not convinced there is a deeper truth beyond the right of an individual to her body and her other property, see Kowalik 2021.

<sup>8</sup> Peter Singer, "Why COVID Vaccine Should Be Compulsory," Project Syndicate, August 4, 2021, <https://www.project-syndicate.org/commentary/why-covid-vaccine-should-be-compulsory-by-peter-singer-2021-08?barrier=accesspaylog> (accessed December 23, 2023).



<sup>9</sup> On the Thomsonian presupposition, an abortion guarantees the death of one or more persons. When one compares this risk to the relatively minor risk of COVID to young healthy athletes, especially with the implementation of other effective mitigation strategies, one can't help but feel a bit of tension. I think, however, that there is only a disagreement here over the facts at hand, and not the general principle. Also, Singer may have been writing at a time when the matter was not as clear. Singer is a consequentialist, and, on consequentialist grounds, not only disagrees with Thomson's argument for abortion, but completely rejects Thomson's theory of rights. The Thomsonian argument presented here, is then an important point of discussion for such consequentialists, as is the notion of rights more generally. The fact that he feels so little need to discuss the right to autonomy supports the notion that such a right, although commonly accepted with regard to abortion, is not similarly accepted with regard to vaccination.

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