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Mapping, Moralizing, and More: Response to Commentaries

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In "Rationing, Responsibility, and Vaccination During COVID-19: A Conceptual Map," coauthored with Jin Park (Park and Davies 2024), our aim was to set out a framework which would helpfully clarify various ethical issues which surround the fraught question of whether vaccination status should be considered as a triage criterion. That our task was a valuable one seems to me demonstrated by the variety of views on offer about the practical ethical question of whether it is defensible to use vaccination status as a consideration in allocating ICU access during a pandemic like COVID-19. More surprising is the number of authors who assume that we have a particular view on the issue. We do, of course, but at least some of them will be surprised to find out what it is, since many simply assume we reject the view they favor.

Some commentaries had a goal similar to ours, solely taking a second-order approach to the types of considerations that are relevant to the first-order ethical question. Jed Gross (2024); Tess Johnson (2024); and Lydia Tsiakiri and Andreas Albertsen (2024) fall into this category. Most papers clearly opposed vaccine-sensitive allocation: Joelle Robertson-Preidler and Olivia Schumann (2024); Rosamond Rhodes (2024); Anuj Mehta and Matthew Wynia (2024); Seth Hollander and Danton Char (2024); Leonard Fleck (2024); Benjamin Gregg (2024); Elizabeth Fenton (2024); Kristine Bærøe and Cornelius Cappelen (2024); and Nishita Pondugula (2024), Christian Garcia Hernandez and Roberto Sirvent all opposed the policy. Finally, a few papers, namely those by Govind Persad and Emily Largent (2024); Christopher Robertson (2024); and Gerard Vong (2024), favored vaccine-sensitive allocation. I cannot engage with every point made by every author. Rather, I identify trends, acknowledge potential areas for further improvement, and address some misunderstandings by commentators.

As Pondugula et al. (2024) note, we are situated in various contexts which inform our sense of what is appropriate in terms of questions to ask and answers to give. I agree that many of the broader issues they raise are essential to keep in mind. I disagree, though, with the implication that theirs is the only useful way to do bioethics. Even if one shared all their first-order commitments, it would sometimes be useful to aim for a *degree* of neutrality. Our attempt to clarify a debate may have some legitimizing effect, presenting it as a subject worth discussing. But even if one is strongly opposed to vaccine-sensitive policies, the ethical components are worth engaging with, especially since such policies are already in discussion. Clarifying moral reasons and reasoning can have implications for ongoing political debate. Getting a clear view of justifications for proposals with which one disagrees illuminates the moral terrain, and avoids "debates" becoming sets of entrenched views talking past one another. Opposing a policy does not entail thinking that every argument made against it is good, nor that every argument made in favor of it fails. As such, we tried to set aside *our* opposition to consider the merits of the arguments.

Some claims in this commentary lacked evidence or argument. That "discussions of vaccine-sensitive rationing permit the possibility of eugenics' reemergence" is a serious but unsupported charge. Similarly, that "a disability justice lens highlights pandemic harms of low vaccination rates" is laudable. But its relevance as an objection to our discussion is unclear.

Pondugula et al. (2024) suggest that our discussions of some groups' caution over vaccination "cast aside oppressive causes of mistrust." That was not our intention—we refer, perhaps too obliquely, to mistrust being caused by "past mistreatment of the individuals themselves, and… knowledge of mistreatment of others." Nonetheless, I accept that the examples we use of an increased tendency to accept conspiracy theories, or to simply feel "ill-defined unease," perhaps were overly narrow.

Pondugula et al. (2024) suggest that we present a "principlist account without acknowledging its limitations." A similar suggestion is implied by Rhodes (2024), who notes that "Instead of a flexible approach,

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sensitive to the needs of the situation and informed by actual evidence, we find blind faith in decision-making ability based solely on abstract principles." The subtitle of our article is "A conceptual map." We did not choose this word by accident. A map is not a compass, nor indeed an ethics protocol. It does not tell you which way to go but lays out the terrain in the hope of aiding navigation. Discussing criteria to consider is not principlism.

Similarly, Gregg (2024) notes that we do not say what it would mean to "balance," nor do we "otherwise instruct the reader in how to implement [our] guide." This is because what we offer is not a guide that can be implemented. Moreover, it is striking that Gregg refers to "our" luck egalitarianism, when we do not endorse such a view. What we say is that the best way to understand what is at stake in *considering* vaccine-sensitive allocation is through a luck egalitarian framework, since this highlights the key moral issues at stake.

Mehta and Wynia (2024) suggest that responsibility-sensitive allocation involves judgements of "social value"; similarly, Hurst (2024) argues there are only two ways to justify responsibility-sensitive allocation, one of which involves denying the equal value of people's lives, since it "requires us to withhold the resource on the grounds of a characteristic of the person rather than on characteristics of the disease or of the intervention being allocated." But consider a policy targeting health interventions at individuals living in poverty. This would target characteristics of persons, rather than diseases or interventions. But it would not involve a denial of the equal value of lives or imply that people living in poverty have greater social value than others. Rather, the sense in which any allocation principle concerns "desert" is simply in terms of making judgements about the strength of people's *entitlements* to care. The mere fact that responsibility is a non-medical feature of persons is insufficient to rule it out.

Hurst (2024) considers an alternative justification, that people are to be *punished* for their irresponsible behavior. She claims proponents of responsibilisation cannot escape this conclusion, since "deprioritization would take place based on a decision to inflict this negative consequence on the direct basis of a disapproved behavior," and that "this is the very definition of a punishment". But the mere fact that an activity is socially disapproved of is not necessary to the decision to impose a cost. Expecting people to bear (some of) the costs of (some of) their decisions is not a moralizing principle: it can apply to socially approved behaviors just as much as disapproved ones. For instance, if someone voluntarily gambles in a casino, we might reasonably expect them to bear the costs of this decision; but saying this does not require that we *disapprove* of the decision morally or otherwise. A decision may be both a disapproved behavior *and* one which has costs we might expect decision-makers to bear; but we should not let this make us assume that the latter fact is *because* of the former.

However, this raises an interesting point made by Bærøe and Cappelen (2024). They suggest that if one endorses holding people responsible for the decision to refuse vaccination, one should also endorse responsibility for the decision *to* get vaccinated, refusing public funding or prioritization for vaccine-related illness. Luck egalitarians might have to appeal to broader ideas such as the incentivizing effects that Bærøe and Cappelen mention. While a luck egalitarian view might say that there is nothing *unfair* about people suffering inequalities which result from a choice to be vaccinated, that does not rule out the state protecting those choices for other reasons, e.g. social value. Note that this does not take us back to the claim that vaccine refusal must be judged as moral grounds for punishment: social value does not entail that those who are vaccinated are morally admirable, nor that the unvaccinated are morally criticisable. Similarly, Gross's (2024) discussion of the place of randomization in the luck egalitarian framework suggests limitations for that perspective. However, there is a potentially more straightforward answer than the one he suggests, namely that in some cases randomization is unjust, but the least unjust option. *Some* method must be used to choose between genuine ties. And while randomization gives a significant role to brute luck, pandemics are just one of many situations where justice may always be lacking in some respects.

Another issue raised by multiple commentaries is feasibility in real-world settings. While this covers a range of issues including the effect on medical professionals (Fleck 2024), and on patients' trust of the health system (Bærøe and Cappelen 2024); Robertson-Preidler and Schumann 2024), my interest is the epistemic problem of *judging* vaccination status and, more broadly, exercise of responsibility. As Tsiakiri and Albertsen (2024) note, strictly speaking, luck egalitarians should distinguish between *vaccination*-sensitive policies and responsibility-sensitive approaches; it is the latter which luck egalitarians want to track, and even if we think that the choice whether to vaccinate is an exercise in responsibility, vaccination status is a highly imperfect proxy for responsibility. Mehta and Wynia (2024) make related points about the difficulty of judging vaccination status. As they note, despite claims that vaccine status is highly tractable, physicians may not have direct access to patients' vaccine status when making admissions decisions, and it is even harder to judge whether failure to vaccinate is the cause of a patient's need for ICU treatment. More broadly, Mehta and Wynia note our discussion of the reasons for non-vaccination: even if we think this is a decision that one can in principle be responsible for, it may be that there are mitigating factors which make one non-responsible.

Contrast this with Robertson's (2024) claims that vaccination status *is* a factor that is easy to track. Robertson suggests that since broader facts about responsibility are intractable to healthcare practitioners—they cannot know, for instance, whether a particular individual is unvaccinated for legitimate reasons—it demands explanation how this should affect real-world decision-making.

We thus have two views. One is that allocation systems cannot get every case right, and so their propensity to get *some* cases wrong cannot be decisive. As we say in the original article, a system of public transportation might employ ticket inspectors to catch fare-dodgers. The fact that some get away with fare dodging is not a good reason to nix this system. Still, to answer Robertson (2024) directly, one might also think that even if we cannot identify *which* individuals have legitimate reasons for their vaccine refusal, the knowledge that there are some—perhaps many—individuals who fit this description should reduce our willingness to impose the criterion. Thus, Vong (2024) is wrong to think that we raise cases like Megan the Cautious in the spirit of purely philosophical theorizing, where one counter-example upsets a theory. Megan is an extreme but illustrative example of the uncertainty we may face when making judgements about apparently simple matters; she is not a theory-shattering counterexample, but an example of a problem to be reckoned with.

This is also relevant to Robertson's (2024) harm-based view because, as he is at pains to point out, his account depends on a *moralized* view of harm: A harms B when A *wrongfully* sets back B's interests. I accept that we misrepresented Robertson's view as vulnerable to certain concerns to which it is not in fact vulnerable; our aim was to discuss the idea of harm more broadly before turning to Robertson's view. But if harm is a moralized conception, it is surprising to hear that Robertson cannot see how mitigating circumstances might be relevant to judgements of morality. Moreover, Robertson criticizes us for discussing his view under the heading of "responsibility" when he explicitly disavows the view that people should be penalized for failures of personal responsibility. This seems to me to make the same mistake—though in entirely the opposite direction—as Hurst (2024), in taking an overly narrow view of responsibility. Robertson's view is a view about responsibility because responsibility is required for wrongfulness.

Finally, Robertson (2024) wrongly assumes (like Hurst 2024) that we see responsibility-sensitive allocation as a form of punishment. He draws this from our brief discussion of whether the harms caused by non-vaccination are analogous to those caused in criminal acts. Robertson himself discusses an analogy with drink-driving, while others have noted that the criminal law holds people responsible despite mitigating circumstances. We raised the issue of appeals simply as a disanalogy. People who are held criminally liable get a chance to plead their case. We do *not* suggest that healthcare systems should have similar procedures, *pace* Robertson.[1] Rather, our point is that pursuing this analogy requires consideration of the affordances that 'defendants' are given, and whether the practices of responsibility-holding are only justified if such affordances are available.

Robertson's (2024) appeal to drink driving clashes with his own claims to a moralized conception of harm. Robertson notes that a police officer need not convene a jury trial to prevent someone from drink-driving, since their job is to prevent harm. But an officer equally need not ascertain whether the driver is acting wrongly (e.g. whether their drink has been spiked in a way which makes their imposition of risk non-wrongful). In this case, the officer's job is to prevent *non-moralized* harm. The apparent simplicity of a harm-avoidance approach trades on the very ambiguity Robertson rightly picks us up on. "First do no harm," to which Robertson appeals at the end of his commentary, is *not* a claim about wrongful harm. Indeed, the moralized version (Do not wrongfully setback people's interests) follows from a more general principle which any conception of morality should accept, and which borders on the uninformative: Do not commit wrongful acts.

Finally, Persad and Largent (2024) agree with Rhodes (2024) that it is unhelpful to frame "justice" as an independent consideration but diverge on how it ought to be framed; they prefer to see justice as "one potential condition for claims of positive or negative reciprocity," while Rhodes frames justice as the all-things-considered justifiable conclusion of our deliberations.

However, whatever one thinks of these as definitions of justice, the purpose to which we put the concept is somewhat different: we were focused on questions of *background* (in)justice framing decisions.

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[1] It is noteworthy that Vong, who sees himself as defending Robertson, *does* endorse an appeals process. I would be interested to read a discussion between Vong and Robertson on this subject!

This is not a question of reciprocity as Persad and Largent (2024) frame it, and nor is it the end-point of deliberation. Rather, it is a recognition of the fact that the moral and political valence of choices are affected by the conditions in which they are made. This has something in common with another of Persad and Largent's four objectives, mitigating disadvantage, but is far from identical. Thus, even if we accept the four objectives they suggest, our framing considerations are still worth considering. I accept, though, that we misrepresented Persad and Largent's view on reciprocity as entirely instrumental, when it plays an independent role in their theory.

Persad and Largent (2024) question our claim that refusal of care in one context is not standardly taken to be relevant to entitlement to treatment in other contexts on two grounds. First, they suggest that since most care occurs in non-scarcity cases, it is not a good guide for decision-making under scarcity. I grant that considerations can become relevant when circumstances change; but I am concerned with the implication that we can easily divide contexts into those which involve scarcity, and those which do not. They also note that we *do* often expect patients to have "tried more plentiful or cheaper alternatives" when seeking "scarce or costly treatments." Thus, access to care can depend on patients' prior choices. But such cases are importantly different than vaccination, since it is reasonable to expect people to opt for cheaper treatments *when those treatments will work*. In contrast, someone who needs access to ICU cannot be told to try vaccination first. I do not claim that this disanalogy is decisive. Rather, as is so often the case with arguments from analogy, more reasoning would need to be given on either side for why we should categorize vaccine refusal in one way rather than another.

CONCLUSION

Many of the commentaries helpfully expanded on our initial mapping. It has been intriguing to read so many discussions which assumed, forcefully, that we had a particular perspective on the issue, though not all agreed with one another. In fact, the purpose of the article was as stated: to *map* relevant considerations for more careful ethical analysis of the problem. We did not do this perfectly; we may have some interpretive errors and perhaps could have more carefully considered some important values. Nonetheless, I hope our primary aim of setting out (some) relevant considerations clearly was achieved, and I thank those contributors who took up this task with us.

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REFERENCES

Bærøe, K., and C. W. Cappelen. 2024. Vaccination-sensitive healthcare rationing: Overlooked conditions, translational ethics, and climate-related challenges. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):94–6. doi: 10.1080/15265161.2024.2353824.

Fenton, E. 2024. Priority is not a proportional, fitting, or fair return for vaccination. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):104–6. doi: 10.1080/15265161.2024.2353840.

Fleck, L. M. 2024. Vexing vaccine ethics: Denying ICU care to vaccine refusers. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):92–4. doi: 10.1080/15265161.2024.2353801.

Gregg, B. 2024. How to evaluate an individual's decision whether to vaccinate during a pandemic: Better by a knowledge commons than by luck egalitarianism. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):101–3. doi: 10.1080/15265161.2024.2353837.

Gross, J. A. 2024. Eliminating or calibrating the role of chance? acute resource scarcity as a challenge for luck egalitarianism. *The American Journal of Bioethics* 24 (7):120–2. doi: 10.1080/15265161.2024.2354137.

Hollander, S., and D. Char. 2024. Should SARS-CoV-2 vaccination be required for heart transplant listing. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):117–9. doi: 10.1080/15265161.2024.2353822.

Hurst, S. A. 2024. Responsibility - crime, and punishment: Why we should not allocate intensive care based on vaccination status. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):109–11. doi: 10.1080/15265161.2024.2353807.

Johnson, T. 2024. Is resource allocation that is sensitive to vaccination status coercive? Who cares? *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):106–8. doi: 10.1080/15265161.2024.2353808.

Mehta, A. B., and M. K. Wynia. 2024. Good ethics begin with good facts—vaccination sensitive strategies for scarce resource allocation are impractical as well as unethical. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):83–6. doi: 10.1080/15265161.2024.2353814.

Park, J. K., and B. Davies. 2024. Rationing, responsibility, and vaccination during COVID-19: A conceptual map. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):66–79. doi: 10.1080/15265161.2023.2201188.

Persad, G., and E. A. Largent. 2024. Fairly incorporating vaccination status into scarce resource allocation frameworks. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):80–3. doi: 10.1080/15265161.2024.2353827.

Pondugula, N., C. Garcia Hernandez, and R. Sirvent. 2024. Against a new wave of vaccine apartheid: Reconceptualizing justice in vaccine-sensitive rationing. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):111–4. doi: 10.1080/15265161.2024.2353806.

Rhodes, R. 2024. Justice pluralism during the COVID-19 pandemic. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):89–91. doi: 10.1080/15265161.2024.2353813.

Robertson-Preidler, J., and O. Schuman. 2024. Vaccine-sensitive allocation – another divide to divide us? *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):97–9. doi: 10.1080/15265161.2024.2353802.

Robertson, C. 2024. Harm-prevention arguments are easier to confuse than to rebut. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):100–1. doi: 10.1080/15265161.2024.2353830.

Tsiakiri, L., and A. Albertsen. 2024. The ethics of using vaccination status as a rationing criterion: Luck egalitarianism and discrimination. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):86–8. doi: 10.1080/15265161.2024.2353825.

Vong, G. 2024. On the differing role of counterexamples in philosophical theory and health policy. *The American Journal of Bioethics: The American Journal of Bioethics* 24 (7):114–7. doi: 10.1080/15265161.2024.2353835.