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Banning COVID Mandates Is the Pro-Liberty Position

May 28, 2022 (2w ago) 

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On May 5, citing the risk “of rare and potentially life-threatening blood clots,” FDA announced it was trimming back authorization of Johnson & Johnson’s COVID-19 vaccine. For millions of Americans coerced by their employers into taking that particular shot against their will, the agency’s action is too little, too late.

And yet employer vaccine mandates still exist, as large companies shirk the risk related to these products onto working-class people, who have no recourse. If you think the party that gave us the New Deal and Great Society would take issue with this, then think again. Democrats have shucked workers aside, falsely grasping the mantle of liberty. Joe Biden, it turns out, is no Ludwig von Mises.

It was not always this way. In a Senate Health, Education, Labor, and Pensions Committee hearing, [a Senator shared serious concerns](#) regarding workplace wellness programs and “workers being pressured to share personal health information, or losing coverage as a result of companies taking the wrong approach.” The Senator said these programs “should grow as a tool to help employees and not as a tool for discrimination.” Seems reasonable to assume this Senator is also against vaccine mandates, right? Wrong.

That was Senator Patty Murray in 2015. Today, Senator Murray and many of her fellow Democrats support employment discrimination—at least against unvaccinated Americans. In a speech on the Senate floor in December 2020, Senator Murray praised airlines and retailers for imposing vaccination-or-test mandates on their employees along with all that entails, not the least of which is employers prying into their workers’ vaccine status.

Democrats still portray themselves as the party of workers’ rights and anti-discrimination law, but recently the party has gone to great lengths to defend vaccine mandates, arguably the boldest assertion of corporate power over workers in decades. Meanwhile, recently, President Trump called for legislation banning vaccine mandates.

This newfound embrace of the right to discriminate, at least against the unvaccinated, is not limited to Democrats. [One libertarian critic rejects](#) Governor Ron DeSantis’ efforts to ban private vaccine mandates in Florida. To this critic, “it’s the Republican officials racing to prohibit private vaccine mandates who are violating clear-cut conservative principles” because “it is wrong for

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prohibited.”

But is it? Do vaccine mandates necessarily flow from a free society or is there more to the story?

The private vaccine mandates did not come to us out of a Lockean state of nature—they arose out of the very private-public swamp President Trump ran against in 2016. At the federal level, the OSHA, CMS, and federal contractor mandates applied pressure to the private sector. As law professor Richard Epstein observed, “there is an ever tighter interdependence between public and private institutions so that it is no longer as easy for the latter to claim independence from constitutional oversight when the federal government has either by promises or threats ‘insinuated’ itself into private actions,” which it has in this case. Add to that the oversight of state and local governments in Blue States which can set policy for employers across the entire country. And of course, even though the OSHA mandate fell at the Supreme Court, federal vaccine mandates still exist for millions of federal employees and healthcare workers.

Aside from direct coercion, there is another factor at play for private mandates, and it has little to do with Adam Smith’s Invisible Hand. Products liability law, which has typically been the domain of the States, generally allows injured consumers to recover damages against product manufacturers. Frivolous lawsuits are a huge problem, they raise the cost of doing business, increase prices for everyone, and must be reined in. But the manufacturers of the COVID-19 vaccines enjoy immunity from such suits under the PREP Act as taxpayers, not the companies raking in billions, pick up the tab for vaccine-related injuries. Employers arguably fall within the scope of not only PREP Act immunity, but also state law caps on liability provided under workers’ compensation laws. While ending frivolous lawsuits is an essential goal, given this landscape, employers have every incentive to mandate vaccines because they can effectively shift all the risk to workers. There is no downside.

Without this government-created insulation from liability, would private employers still demand their workers get vaccinated? Perhaps in some settings. But we would not see mandates across the entire economy, given the risk businesses would otherwise face without liability protections. Before mandating any shots, employers would have to carefully weigh the risks of liability against the benefits of a vaccinated workforce while considering natural immunity to COVID-19 and waning vaccine efficacy against the Omicron variant. Companies would also want to be confident

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accident. Imagine the outrage if a business required abortions for all pregnant employees? What about forced sterilization? Both would reduce time out of the office and save money, but our society rightfully would not tolerate it.

Even right to work states like Texas set boundaries around the employment relationship, forbidding employers for firing workers on the basis of race, religion, age or disability, retaliation, or sex (including pregnancy) for example. Last year, an ESPN employee trying to get pregnant refused her employer's mandate and quit. The irony is that had she become pregnant, her employer would be prohibited by law from firing her. Her body, ESPN's choice.

These mandates must fall. One such effort is the proposed Texas COVID Vaccine Freedom Act. The proposal is based on the common law rule that informed consent does not exist when a patient is coerced or compelled to receive a medical procedure. The Act would make it illegal to administer a COVID-19 vaccine without receiving a patient's informed consent, something workers coerced into getting a shot cannot provide.

The private mandates are largely the result of government meddling, not liberty. And now it is time for the States to mitigate the unintended consequences of liability protections extended by Congress.

Brian Harrison, who represents District 10 in the Texas House of Representatives, previously served as Chief of Staff at the U.S. Department of Health and Human Services and helped launch Operation Warp Speed. Along with Representative Harrison, James R. Lawrence, III served as a Deputy General Counsel at HHS, and was outgoing Chief Counsel of the FDA under President Donald J. Trump.

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Name

Ozarkian • 11 days ago

The NIH, WHO, AMA, FDA, and CDC all profusely lied about

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They all need to be disbanded and those that run them sued into oblivion, they have turned into tools of tyranny and have broken their original mission.

2 ^ | v • Reply • Share >

bill → Al Pott • 10 days ago

Some of them need to be hung.

3 ^ | v • Reply • Share >

bill → Ozarkian • 10 days ago

We need to revisit the "Life for Life and eye for eye" again. It is not only our right to defend innocent lives, but it's our duty. I wonder what the true death toll is from the jabs?

1 ^ | v • Reply • Share >

Rebecca Connors • 11 days ago

A gubernatorial candidate from Massachusetts promises to (upon election) hire back all of the state employees who were fired due to vaccine mandates. Additionally he claims he will fire all of the employees who did the firing. I'm happy to hear this, and it sounds like a good idea. I don't think it work though. The problem came from CDC and NIH instructing organizations to get rid of these employees. The power given to Public Health and HR departments is large part of the problem. Can't diminish the role media had by creating- the vaxed vs the unvaxed, good vs evil, science vs snake oil narrative.

9 ^ | v • Reply • Share >

Derek Smith → Rebecca Connors • 11 days ago

1st - Repeal the liability exemption for vaccine manufactures.
 2nd - Prohibit pharmaceutical from funding FDA research.
 3rd - Prohibit the regulators from working for pharmaceutical companies after they leave the government for at least 7 years.
 4th - Prohibit government employees from receiving patent royalties on the products they regulate.
 5th - Replace the leadership at the FDA, NIH etc.

9 ^ | v • Reply • Share >

Faithkills → Derek Smith • 10 days ago

The FDA can't be fixed anymore than the FBI, etc. It needs to be abolished.

They were invented to do evil and cannot be made to do good.

Regulation is a deceitful euphemism for monopoly. All regulation is or can be is preventing US from buying some things, forcing US to buy the things sold by the businesses granted the monopoly.

Calling it "regulatory capture" is like calling prostitution "penis capture". Like they just were innocently going about their penis business and got "captured".

The FDA can only prevent you from making choices you would otherwise make. THAT IS MONOPOLY.

All the FDA is, all it can ever be, is a business to sell monopoly to other businesses.

5 ^ | v • Reply • Share >

Rebecca Connors → Derek Smith • 11 days ago

Yes. All of this. No other med is free of liability. Dissolve the CDC. Redefine "peer review" or make a new gold standard for research.

3 ^ | v • Reply • Share >

The Deplorable Hobbit → Rebecca Connors

• 10 days ago • edited

Sounds good, will not happen, or if it does it's only a matter of time until the good ole boys of research redefine your redefinition.

Peer review has long simply been a way to develop a good ole boy network within a given discipline and to exclude those with whom you do not agree. There are many examples of breakthrough science being suppressed, because it does not agree with the common wisdom that is, in reality, not. See Galileo, and follow the debate a few years ago about the origins of stomach ulcers for two particularly egregious examples that immediately come to mind and the later killed, or at least injured, people.

^ | v • Reply • Share >

letmepicyou → Derek Smith • 11 days ago

~~Disagree with all the FEMA in the first place. Haha~~



Yep

^ | v 1 • Reply • Share >

john holmes • 10 days ago

covid has never been isolated, so how could there be ANY vaccine created? all we have is a gene therapy used to deliver population control tools

3 ^ | v • Reply • Share >

Jonathan Mailer • 11 days ago • edited

Kudos to Revolver overall for this article, but Robby Soave is a joke. Further, Cato and Reason since the early 1980s have been progressive lite ("low-tax [modern] liberalism" in the words of Ed Clark). That's what the billionaire Koch brothers who helped build both orgs were always aiming for. After booting Murray Rothbard (the real McCoy) from Cato, both orgs have employed and promoted re-packaged hippies, LGBTQ activists, warmongers, feminists, dynamists (Virginia Pastrami), airheaded ditzes (Nick Gillespie, Katherine Mongoloid Ward), Obama groupies (Will Wilkinson, Brink Lindsey, Dave Weigel), policy prostitutes (Jerry Taylor), celebrities (P.J. O'Rourke, who endorsed Hillary Clinton in 2016, MTV goofballs Kurt Loder and Kennedy Montgomery) and on and on, and tried to re-sell them to the public as "libertarians." Conservatives, though, should be anything but smug about this. The Kochs (before and since the death of David) now fund and at least indirectly control many of their most influential think tanks and orgs as well (e.g., Heritage Foundation). Look out.

2 ^ | v • Reply • Share >

Oliver Clozoff • 11 days ago

There's more to being a libertarian than simply calling yourself a libertarian. Khristy Noem is no libertarian.

2 ^ | v • Reply • Share >

Superare Dolo • 11 days ago

The principled libertarian position has to see the obvious - the line between government and corporation has blurred to the point of irrelevance. Corporations are acting as government, and hiding behind their *private* status to evade constitutional protections. That's not kosher - when doing the work of government, you're subject to the same limitations.

2 ^ | v • Reply • Share >

1 ^ | v • Reply • Share >

letmepicyou • 11 days ago

Denying COVID's EXISTENCE is the pro-liberty position.

1 ^ | v • Reply • Share >

Cobraboy • 11 days ago

A more fundamental reason is all the vaxxxes are now proven to be very harmful.

Additionally, Zhou Xiden should drop the ban of unvaxxxed foreign national into the US, because we now know it's the vaxxxed who spread covid, not the unvaxxxed.

My wife of 15 years is a foreign national with a long-standing entry visa, and she is unable to visit her family in the US, and now that our business has been sold cannot legally immigrate to the US with me, although she had a green card in the past.

1 ^ | v • Reply • Share >

Rebecca Connors → Cobraboy • 11 days ago

Not being able to see your family is pretty awful.

2 ^ | v • Reply • Share >

Cobraboy → Rebecca Connors • 11 days ago

Very true, and it also means I cannot move back. I can travel to the states unvaxxed; she cannot.

And there is no way in hell either of us will take the poison jab.

3 ^ | v • Reply • Share >

Rita Ryan → Cobraboy • 10 days ago

hope you find a way...this is awful

^ | v • Reply • Share >

Brendan • 4 days ago

.....this "argument" is far too tame. In fact, it is absurdly side-stepping the very real issue's surrounding this "crossing the Rubicon" moment that bodes very badly for all freedom loving citizens throughout the world.

Let's just state the facts as we know them.

C-19 had a survivability rate for all those under 75 of about 99%; and

world practically - AND - known cures like ivermectin, etc. would be banned so that an Emergency Use Authorization was KNOWN to be a guarantee well - now you have something.....

....and that "something" is a nightmare of evil that many are having difficulty accepting

Unfortunately - Evil exists. Read your Bible

Peace.....

^ | v • Reply • Share >

Paula Kinziger • 9 days ago

South Carolina passed a law and Governor signed it April 22, 2022 no discrimination for the unvaccinated. Cannot ask a person's vaccine static period, and now working no monies or resources for DHEC to issue immunity passport related to Covid 19 or integrated with any Smart Health Cards.

^ | v • Reply • Share >

The New Number Six • 9 days ago

Don't mess with Texa(n)s...or Americans

^ | v • Reply • Share >

