

本期企劃

疫苗強制與宗教豁免—— 淺析疫情下 美國社會的法政策挑戰*

Religious Exemptions of Vaccine Mandates:
A Short Analysis of Legal and Political Challenges
of American Society amidst the COVID-19 Pandemic

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摘要

COVID-19疫情自爆發以來，普遍疫苗施打被視為重要的防疫措施。美國雖然已盡速通過疫苗緊急授權並展開施打，但至2022年1月中，施打完兩劑占人口比例為63%，只在世界排62名。許多論者將此一現象歸咎於美國長年的反疫苗運動、反智傳統，以及各州大多承認「宗教豁免」對抗疫苗強制令的制度。本文綜合公共衛生、社會研究調查與法律政策觀點，簡要分析疫苗

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關鍵詞：公共衛生法 (public health law)、反智傳統 (anti-intellectualism)、宗教豁免 (religious exemption)、疫苗強制 (vaccine mandate)、新冠肺炎疫情 (COVID-19 pandemic)

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宗教豁免（尤其在這次疫情中）對美國的社會與法制挑戰，以及此挑戰所啟示如何更精緻衡平公共衛生與人權保障的方向。

Increasing vaccine coverage has been considered a critical measure to counter the COVID-19 pandemic. While the federal government launched a vaccination program shortly after its emergency use authorization of vaccines, the vaccine coverage of the United States is 63% that only ranks 62th around the world by mid-January, 2022. This relatively low coverage is commonly attributed to the anti-vaccine movements, and anti-intellectualism in the U.S. history, and religious exemption of vaccine mandates recognized by most state and federal laws. From a perspective of public health law and social research, this article analyzes how religious exemption challenges U.S. legal system and society (especially amidst this pandemic), as well as to explores a more sophisticated balance between public health needs and human rights protections.

壹、前言

COVID-19（新冠肺炎）疫情自2020年爆發以來，疫苗的迅速研發與普遍施打被視為重要的防疫措施。即使是被貼上「反智」（anti-intellectualism）標籤的民粹政治奇葩、宣傳麻疹疫苗導致自閉症¹的美國前總統川普（Donald Trump），也在2020年5月代表聯邦政府啟動大型公私協力計畫「曲速行

1 博利（Michael Burleigh），民粹視角：川普式威權主義 正在侵蝕美國的民主，風傳媒，2021年9月4日，https://www.upmedia.mg/forum_info.php?SerialNo=123336&Type=130（瀏覽日期：2022年4月14日）。

動」(Operation Warp-Speed)²，力拼全速開發疫苗、通過審查、能在2021年1月前取得三億劑疫苗，並在美國全面施打³。

雖然美國食品暨藥物管理局(Food and Drug Administration, FDA)在2020年12月中以緊急授權(Emergency Use Authorization, EUA)方式通過輝瑞-BNT(Pfizer-BioNTech)開發的疫苗⁴，隨後也授權莫德納(Moderna)與楊森(Janssen)共三款疫苗⁵。2021年1月底新上任的總統拜登(Joseph Biden)在亞馬遜電商(Amazon)配合物流下，霸氣宣示「上任百日打1.5億劑」⁶。但至2022年1月17日，美國施打完兩劑(標準注射量)占人口比例為63%，只在世界排62名(世界平均為51%)，也與臺灣的71%有不小的差距⁷。當

2 「曲速」為美國科幻系列作品《星際迷航記》(Star Trek)中地球人於未來開發的超光速太空旅行技術，也引發外星人對地球人的重視、首度造訪地球。

3 U.S. Department of Health and Human Services, <https://www.nihb.org/covid-19/wp-content/uploads/2020/08/Fact-sheet-operation-warp-speed.pdf> (last visited Jan. 17, 2022)。事實上，川普本人從不諱言自己施打COVID-19疫苗之事——即使從第一劑到加強劑都被支持者報以噓聲。Rebecca Shabad & the Associated Press, *Trump Boosed after Revealing He Got a Covid Booster Shot*, NBC NEWS, Dec. 21, 2021, <https://www.nbcnews.com/politics/donald-trump/trump-reveals-he-got-covid-booster-shot-crowd-boos-him-n1286361> (last visited Jan. 19, 2022)。

4 U.S. Food & Drug Administration, *FDA Takes Key Action in Fight Against COVID-19 By Issuing Emergency Use Authorization for First COVID-19 Vaccine*, https://www.fda.gov/news-events/press-announcements/fda-takes-key-action-fight-against-covid-19-issuing-emergency-use-authorization-first-covid-19?utm_medium=email&utm_source=govdelivery (last visited Jan. 17, 2022)。

5 U.S. Food & Drug Administration, *COVID-19 Vaccines*, <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines> (last visited Jan. 17, 2022)。

6 AJMC Staff, *A Timeline of COVID-19 Vaccine Developments in 2021*, <https://www.ajmc.com/view/a-timeline-of-covid-19-vaccine-developments-in-2021> (last visited Jan. 17, 2022)。

7 The New York Times, *Tracking Coronavirus Vaccinations Around the World*, <https://www.nytimes.com/interactive/2021/world/covid-vaccinations-tracker.html> (last visited Apr. 20, 2022)。再以臺、美二