

California Attorney and Assemblyman Challenges Mandatory Vaccination Law as Unconstitutional

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The Constitution – or, rather, limitations that the Constitution places on government – doesn't matter much these days to many of our elected officials. Indeed, many have often speculated that if our founding fathers were somehow able to step into modern America, the technology would blow them away, of course, but they would not recognize our governing system.

California's recent law mandating that all children have to be vaccinated in order to attend public and private schools in the state is a case in point: This Stalin-like "solution" to a non-existent problem – a rampant threat to public health from non-vaccinated kids – turned parental rights on its head.

Now, however, one state lawmaker says he isn't prepared to let what he views as a major constitutional usurpation go unchallenged. Democratic Rep. Mike Gatto, a constitutional and appellate lawyer by trade, has hinted he may seek to get the law overturned.

'Such intimate decisions are not for government to make'

In a recent *USA Today* column, he wrote:

I swore an oath to uphold the U.S. and California constitutions. Sometimes, that means voting against "responsible" bills that nevertheless represent government overreach. California's broad new mandate, that a child cannot attend school unless vaccinated for 10 conditions and "any other disease deemed appropriate," was such an occasion.

The legislation affects four fundamental rights: to parent one's children; to refuse medical treatment; to practice one's religion (for those whose creed genuinely eschews medicine); and to attend school (a unique right recognized in [California](#)).

Gatto went on to note that even if the state government does have a compelling interest in slowing the spread of disease, lawmakers and Gov. Jerry Brown cannot infringe on constitutional and civil liberties with overly broad laws, especially if less-restrictive means of achieving the compelling interest are available.

"Consider the following examples. There are 1.2 million Americans with HIV and 178 this year with the measles. Just as vaccines slow or halt the spread of measles, prophylactics slow or halt HIV," he notes. "But could the government mandate that everyone use

condoms to stop the spread of HIV? Of course not. Such intimate decisions are not for government to make.”

He also wrote that about 56,000 Americans die annually from the flu or from pneumonia. If one were to prohibit the travel and assembly of anyone who was suspected of suffering from either of these conditions, that would go a long way towards curbing the spread of each illness and thus, save lives.

However, the right to assemble and travel freely around the country are bedrock liberties in the U.S., guaranteed by the [Constitution](#), and governments could not deny them to people on the basis of having the flu.

Gatto said scholarly writings have noted that court rulings permitting mandatory vaccinations are narrow, outdated and originate from a line of precedent that also gave government power to sterilize anyone it deemed genetically unfit.

Proponents of mandatory vaccinations say that supporters of parental rights/vaccine choice ought to “trust scientists.” And while [Gatto](#) says he does, he also notes that vaccination proponents “would be wise to trust constitutional lawyers.”

“A law mandating vaccinating kindergarteners for an STD, shots for tetanus (not communicable) and ‘any other’ vaccines that some bureaucrat chooses — or a child loses the right to education — is too broad to be constitutional,” he asserted.

No wonder our elected leaders have tanking approval ratings

It wasn’t clear from his op-ed whether Gatto planned to file a legal challenge to the law, but the fact that he has bucked his own political party over fundamental constitutional issues is refreshing.

By contrast, the Editorial Board of *USA Today*, a gatekeeper of progressive elitism in media, [not only approves of California’s restrictive law](#), but is urging *all* states to adopt something like it.

Nothing like a little authoritarianism to throw our founding fathers through a loop - if they ever make it back to the future.

The good news is, in poll after poll, Americans are showing their displeasure with their elected leaders. Trust has evaporated, and institutions like Congress and the Supreme Court have seen their approval ratings plunge to record depths. Perhaps at some point the anger will manifest itself in a political revolution that spells the end to career politics and disproportionate influence from special interests like Big Pharma.

Sources:

<http://www.usatoday.com>

<http://healthimpactnews.com>

<http://www.nvic.org>

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