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'Immunity Passports' Could Create a New Category of Privilege

Being infected with the virus could come with more freedom



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A new type of test uses a small blood sample to look for the presence of coronavirus antibodies. Photo: SOPA Images/Getty Images

one version of the future, a new type of test that measures antibodies would help restore a sense of normalcy for some people even as the coronavirus pandemic drags on. With the right antibodies, some may be immune to the virus, unable to get sick or spread the virus to others. Widespread testing for these antibodies could pave the way for so-called immunity certificates, which would allow people who have already been exposed to the virus to return to public life.

But the hope may be dashed by significant scientific and ethical concerns. For starters, diagnostic testing is already extremely limited in the United States, to say nothing of the more experimental antibody testing. Experts worry that antibody testing isn't guaranteed to prove immunity. And if it does, the resulting immunity passports could be used to discriminate against untested people and those who aren't immune — in the workplace, for example. That could lead people to intentionally expose themselves to Covid-19, banking on the hope that they'll survive and earn the documentation they need to reenter society.

Despite those concerns, immunity certificates have been proposed as a way to begin reopening the economy in places around the world where daily life has come to a grinding halt because of the new coronavirus. Chile could become the first country to issue immunity certificates to people who have recovered from the virus, and public officials in Germany and Italy are also considering them. In the United States, even the country's leading coronavirus expert, Dr. Anthony Fauci, director of the National Institute of Allergy and Infectious Diseases, has said the idea of immunity certificates might "have some merit under certain circumstances."

"There's a major ethical value in doing this to keep people safe while keeping the economy going," Sean Aas, senior research scholar and a professor of philosophy at the Kennedy Institute of Ethics at Georgetown University, tells *OneZero*. But there are roadblocks to rolling out such certificates.

Immunity passports hinge on people getting a diagnostic test to know if they're infected with Covid-19, since antibody tests are not yet reliable. People who have been diagnosed with the disease and recover from it could be the first in line for such certificates. But right now, most public health experts agree that the United States isn't doing nearly enough testing to identify Covid-19 cases.

Testing to diagnose Covid-19 has been prioritized for health care workers, those who have been hospitalized for symptoms, and elderly adults. Meanwhile, those with mild

symptoms are being told to stay home and are going untested. A doctor's order is also needed for a diagnostic test. For people without health care or a primary care physician, getting access to testing could be a huge barrier to obtaining an immunity passport.

Unlike diagnostic testing, which shows a current infection, antibody testing would reveal whether a person has previously been infected with the virus, perhaps without knowing it. But the accuracy of these tests varies, and it's not yet known whether they're a true indicator of immunity to the new coronavirus.

"If we are going to use immunity certificates, we need to make sure they're scientifically valid," says Seema Mohapatra, an associate professor of law at Indiana University who focuses on health care.

Issuing immunity certificates based on faulty tests could be disastrous. False positives — in which a test result says people have coronavirus antibodies when they don't — could lead people to believe they have immunity when they don't. If they reenter society, they could spread the virus or get sick themselves. Even tests that accurately show that a person has coronavirus antibodies may not make them immune to the virus.

A person's immune system makes antibodies when it encounters a pathogen it's never seen before. These antibodies help fight off the infection, and they stick around in the blood afterward, often for months or years. If a person is exposed to the virus again in the future, those antibodies are primed to strike against it. Scientists think the presence of SARS-CoV-2 antibodies means a person could have full or partial immunity to the virus that causes Covid-19. But they don't know for sure. The body can make different types of antibodies in response to a pathogen, and it's not yet known which kinds of antibodies are needed to provide protection or how long they will last.

"We're basically extrapolating from other coronaviruses and other diseases," says Robert Fitzgerald, director of toxicology and associate director of clinical chemistry at the University of California, San Diego, who is involved in the health system's effort to develop a coronavirus antibody test. "It makes sense that there would be some degree of immunity, but we don't have enough experience with this virus to make that determination."

Antibody tests could be helpful in identifying people who were infected with the virus without knowing it because they had either mild or no symptoms. People who test

positive for the right antibodies could then be issued immunity certificates, allowing them to return to work and move about freely again.

The effects could split communities in two — those who are allowed to go about their normal lives and those who are confined to their homes for an indefinite period of time.

Immunity passports would be helpful for frontline workers, like those in health care, the postal service, grocery stores, public transit, warehouses, and childcare. Many low-wage workers in these industries are still working throughout the pandemic, risking exposure to the virus just by going to their jobs every day. If they knew they were immune to infection, they could go about their day without worrying if they could catch the virus from patients or customers.

But for those who are out of work because of the shutdowns, Nancy Kass, deputy director for public health at the Johns Hopkins Berman Institute of Bioethics, says she worries about a situation in which people intentionally try to expose themselves to the virus to gain immunity. Some people are already eschewing public health advice, whether it's because they feel the risk of getting seriously ill is low or because they have to keep working in order to support themselves or their families.

“Particularly if they work in a gig economy job as opposed to a salaried one, they probably do have a greater chance of getting paid again if they have immunity,” Kass says.

African Americans, who are more likely to work low-wage jobs, may especially feel pressured to go back to work and risk exposure. And with higher rates of coronavirus infections and deaths affecting African Americans, they face higher risks than other groups.

In a near future with immunity passports, employers could make decisions about hiring and who can come back to work based on immunity — and it might be legal. The Americans with Disabilities Act, which became law in 1990, requires employers to make reasonable accommodations for people with disabilities. But Mohapatra says there's a

legal question of whether not having immunity would be considered a disability. “Those people might not be protected,” she says.

The Genetic Information Nondiscrimination Act of 2008 is another law that offers protection against employer discrimination, but it wouldn't apply in the case of Covid-19 since it's an infectious disease, not a genetic condition.

If employers could deny work to those who are not immune, Mohapatra says it would be a big step back from these current protections. “We have tried so hard to make sure that employers cannot use health information for hiring and firing decisions and that people can be employed regardless of their health status,” she says. “I don't think it's at all far-fetched to consider how this could be a slippery slope.”

If employers begin requiring coronavirus tests or immunity certificates for current or prospective employees, Kass says governments should step in to enact strong anti-discrimination policies so that employers don't penalize older adults, those who are immunocompromised, and those who haven't been exposed to the virus yet. People who can't work should also have financial help and access to health care, she says.

While countries like Chile may be able to issue such certificates on a national level, the decision in the United States will likely be left up to states. Already, Georgia Governor Brian Kemp plans to begin reopening his state. Other states that have been hit hard by the pandemic could choose to issue immunity certificates.

People without immunity could be banned from entering grocery stores, using public services, or traveling. They could be stigmatized or disadvantaged. The effects could split communities in two — those who are allowed to go about their normal lives and those who are confined to their homes for an indefinite period of time. That could seed resentment and open the door to legal action against the government, if people in certain states feel more restricted than those in other states.

In many places across the country, there's a very real possibility that some people won't be able to return to work or get back to their normal lives for several more months. A recent analysis from Harvard researchers published in the journal *Science* predicts that “prolonged or intermittent” social distancing could be needed through 2022 to contain the virus.

Immunity certificates could be the get-out-jail-free card that many Americans so desperately want, but they could also create more uncertainty and risks for the people they are meant to help most. “There will need to be social decisions about whether the opportunities outweigh the concerns,” Kass says.

If they do, and they’re based on sound scientific evidence and issued fairly with protections in place, they could restore the one thing that so many of us are craving right now — human connection.

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