

An Introduction to Ethical Theory and Public Health Ethics



Objectives

- To develop PH Competency: Applies ethical principles to the development, interpretation and enforcement of public health laws
- To describe development of the field of bioethics to which PH ethics is related; to differentiate bioethics and PH ethics
- To describe briefly some important schools of ethical thinking -> Rawls contactarianism and discourse ethics
- To review some principles of bioethics adopted by PH ethics
- To outline suggested PH ethics analysis



Morality and Law

- The law does not determine morality.
- Law and morality overlap
- Ethics is the philosophical discipline concerned with understanding how human beings should act (what is a moral act), what is good, and what kind of life is best.



Bioethics – some history

- 1950s-60s development of dialysis – ‘God squad’ to ration technology
- 1950’s and 60’s organ transplantation and development of standard of ‘brain death’
- *The Belmont Report* set forth the basic ethical principles that should underlie the conduct of biomedical and behavioral research involving human subjects - IRBs

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Bioethics – some history 2

- 1978 First test tube baby – Should we make children by means of technology?
- 1970’s and 80’s, Karen Ann Quinlan and Nancy Cruzan - widely publicized cases brought end-of-life issues to the attention of the public and policy makers. (Lead to Patient Self Determination Act)

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Principlist approach to ethical decision making

- **This approach has dominated Western bioethics for the last twenty years.**
- **Claims of principlism:**
 1. Basic principles and the specific action guiding rules that are derived from them are central to the ethical decision making process in health care situations.
 2. In any given health care situation, any decision or course of action is morally justified if it is consistent with relevant principles, rules, background theoretical commitments, and particular judgments.
 3. The success of the task of justification in 2 can be measured by the degree to which it achieves an overall cohesion of all of the elements of the decision making process.

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Basic Ethical Principles (Belmont Report – research context)

1. Respect for Persons

2. Beneficence

- (1) do not harm and
- (2) maximize possible benefits and minimize possible harms.

3. Justice

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Some Ethical principles

□ Five ethical principles within which particular ethical dilemmas may be analyzed and that are generally applied in bioethics and adopted by public health are

1. Respecting autonomy *
2. Doing no harm (non-maleficence) – principle of precaution
3. Benefiting others (beneficence)
4. Being just (justice)* (Beauchamp and Childress)

5. (Being faithful (fidelity) – not abandoning a sick person)

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Principle of Autonomy

- The individual has the right to act as a free agent and to exercise freedom of thought or choice
- Human beings are free to decide how they live their lives as long as their decisions do not negatively impact the lives of others. Human beings also have the right.
- Requirement of 'Informed Consent' is derived from this principle.

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Principle of Beneficence

- Our actions should actively promote the health and well-being of others
- **A principle of medical ethics**
- **Overall goal of public health policy and practice.**

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Principle of Justice

- **Fairness**
 - **The issue especially when the rights of one individual or group are balanced against another.**
 - **Alternative definitions**
 - **Equality of Opportunity**
 - **Equity of Access**
 - **Equity of Benefits**

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Ethical Issues in Public Health

- Focus is often on conflicts between autonomy and beneficence
- What is paternalism?
 - An imposition of an individual's behavior out of concern for that individual's well-being.
 - Whether or not an intervention is paternalistic depends on it's justification the US, respect for personhood has taken first place among the principles.
- A very important question for Public Health is: When is paternalistic intervention justified?
 - Examples, disputes over helmet laws

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Public Health Ethics

- 'macro' approach
- Public health involves public policy so politics must also be considered

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Public Health Principlism – one alternative set of principles offered

- **Solidarity** - As a result of common needs and interests, a community comes together to improve its aggregate health by reducing morbidity and mortality.
- **Efficacy** - A program should be scientifically sound and have a significant chance of being successful in achieving its goals of improving a community's health and wellness and should be one that is feasible in regard to social, political, and cultural climates
- **Integrity** - Creates an obligation to preserve the nature and character of a cultural community, to include the community in program development, and to provide interventions that match community values and are explained in terms of local knowledge
- **Dignity** - All people are equally worthy of moral respect and consideration. Therefore, one should respect people as members of the interconnected community and choose the least restrictive alternative in programming. Human life is vulnerable and needs to be protected. (Craig Klugman)

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Study participants expressed PH practitioners ethical concerns

- the political imposition of a public health agenda with which they took issue
- the politicized nature of US public health funding.

□ Source: Gollust et al. 2008 "Politics and Public Health Ethics in Practice: Right and Left Meet Right and Wrong" *Journal of Public Health Management and Practice* July/Aug. 2008 p. 340-347

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Ethical Decision-making in practice

- It is never an automatic application of a particular ethical principle
 - Because what should be done always depends on the particular facts of the case
 - Because there are often conflicting ethical principles which must be considered – e.g., confidentiality due to the STD patient vs. prevention of disease

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Overview of Ethical Theories

Ethical theories have been another source for ethical reasoning in public health:

- Utilitarianism – key importance
- Kantianism (Deontological Views) - key
- Contractarianism (i.e., Rawls' egalitarian liberalism)
- Natural law – less important
- Virtue ethics – less important
- Communitarianism
- Libertarianism (a type of liberalism)

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Good, right, duty – ethical definitions

- Good – A person's good is what is rational for that person to want, assuming she or he
 - Has full and accurate information and has critically reflected on her/his goals
 - Has made goals her/his consistent
 - Has decided on effective means for realizing them
- Right – a Right act is one that conforms with moral system
 - Duty is an act I am required to perform by moral obligation
 - Moral rights are claims justified by moral principles and are correlated with obligations

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Utilitarianism

- John Stuart Mill: Act so that your action maximizes the general happiness
- 'Happiness' = overall well-being (this is not hedonism)
- Consequentialist
- Requires the MAXIMIZATION of the good

Two kinds of utilitarianism

- Act utilitarianism maintains that the morality of each action is to be determined in relation to the favorable or unfavorable consequences that emerge from that action
- Rule utilitarianism maintains that a behavioral code or rule is morally right if the consequences of adopting that rule are more favorable than unfavorable to everyone; we choose the set of rules which maximizes happiness and then follow those rules regardless of their outcomes

Kantianism/Deontology

- Kant's ethics are based in duty rather than emotional feelings or end goals.
- All actions are performed in accordance with some underlying maxim or principle, it is this that the moral worth of an action is judged according to.
- moral obligation rests solely upon duty, without requiring any reference to the practical consequences
- Duty is internal, freely imposed obligation on oneself
- Q What is my duty?
 - Kant's A: Act so that the maxim of your action could be willed to be a universal law.
 - Kant's A: Treat others as ends, never as mere means

Kantianism - contd

- Primary feature is a theory of the right
- **Relations with others must be based on duty**
- **Duties take precedence over results or consequences (considered second)**
- **Universalist**
- **Compare Golden Rule - "Do unto others as you would have them do unto you."**
- **Or "What's fair for one is fair for all."**

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Rawls' modern form of 'contractarianism' (an example of 'egalitarian liberalism')

- **Q What makes some particular system of collectively enforced social arrangements *legitimate* (authoritative and to be obeyed)? A. The people who are subject to it would rationally agree to it.**
- **Justice=fairness for John Rawls.**
- **'Veil of ignorance' experiment – insures that principles of justice are not chosen based on any particular social situation.**
- **Basic principles of this social arrangement**
 - **Liberty principle – all persons should have equal rights to the most extensive basic liberty compatible with others' liberty**
 - **Difference principle – social and economic inequality should be arranged so they are expected to be to everyone's advantage.**

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Social contract theories or contractarianism

- **Social contract theories -that the people give up some freedom or rights to a government in order to receive the benefits of social order**
- **For Rawls - underlying idea is that every member of society should be able to accept the same terms of cooperation because they achieve certain interests everyone has**
- **These 'terms of cooperation' in a "well-ordered society" become embodied in societal institutions and government with which because of the original social contract we willingly comply**

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Rawls' the well-ordered society

- For Rawls in a “well-ordered society”
 - a. Everyone accepts the same public conception of justice (fairness), and their general acceptance is public knowledge
 - b. Society consistently realizes the generally accepted conception of justice in its institutions
 - c. Everyone has an effective sense of justice, which leads them to want to do what justice requires of them

Rawls' Publicity Principle

- The parties assume that they are choosing principles for a public conception of justice. They suppose that everyone will know about these principles all that he would know if their acceptance were the result of an agreement. Thus the general awareness of their universal acceptance should have desirable effects and support the stability of social cooperation.
- Publicity principle requires that a moral premise must be one that “everyone ought to accept, and publicly acknowledge to each other”

Kantianism contd. - Discourse ethics

- Derived from one interpretation that says Kant views reasoning as both a practical and collective task
- If reasoning is to be a collective task, a fundamental requirement is that no one wishing to participate be prevented from participating in the collaborative discourse since the categorical imperative embodies universality.
- **Principle: Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourse.**

Natural Law

- The theory that one may, through rational reflection on nature (especially human nature), discover principles of good and bad that can guide our actions in such a way that we will move toward human fulfillment.
- Related to this is a theory of natural rights - that there are universal rights that are seen as inherent in the nature of people. The Declaration of Independence states
"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

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Virtue Ethics

- a virtue may be defined as an habitual disposition to perform certain actions, which generally produce the best possible results, i.e. a character trait.
- emphasizes character and development of character
- sees action as flowing out of character, not as primary in itself
- Related to recent interest in ethics of Aristotle
- E.g. Best seller *The Book of Virtues* by William Bennett

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Communitarianism 1 – redefines “individual”

- Starts with the idea that individuals are essentially embedded in communities, and argue that true freedom is connected with the values and roles of the community people live in.
- There is not self apart from the community under this view, and attempts to be “free” outside the community are self-defeating and in no way expressions of true freedom.
- True freedom is connected with the values and roles of the community in which people live.

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Communitarianism-II

- A belief that what is in the world is not only atomistic individuals but more importantly societies or communities of individuals
- Looks to the social individual or collective and the significance of reciprocity, trust, solidarity etc.
- Looks to interpret and refine values that are embedded in the history and ways of life of really living groups - societies, communities – a non-universal approach to ethics
- Values community itself, and tradition

Libertarianism

- Libertarianism is a political and ethical approach that maintains that all persons are the absolute owners of their own lives, and should be free to do whatever they wish with their persons or property, provided they allow others the same liberty.
- There is generally no justification for the state to help people out of their own suffering.
- Libertarianism highlights the free market as an expression of individual free will through which people could freely sell and buy all goods. Under such a system, the price for help services would be set according to market principles. If a person wants to seek help but cannot afford it, that is no concern of the state—there can be no restriction or infringement of rights even to assist others.

When is paternalism morally justified?

- **Traditional liberal view: (virtually) never justified**
 - John Stuart Mill's harm principle: "The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others."
 - Why?
 - Individuals make best choices for themselves
 - Respect for personhood trumps beneficence

When is paternalism justified (cont'd)

Other situations where find it morally justified:

- **when rational individuals would (in principle) agree to having limitations imposed on them**
 - When one's behavior has "far-reaching, potentially dangerous, and irreversible" results (e.g. inconvenience of seat belts)
 - When one's decisions are made under "extreme psychological and sociological pressures", waiting periods may be justified (e.g. guns)
 - When dangers of one's behaviors are not "sufficiently understood or appreciated" (e.g. smoking)

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When is paternalism justified (cont'd)

- Requirements for paternalism:
 - Burden of proof must fall on those who wish to impose restrictions on behavior
 - Principle of least restrictive alternative
- Are there other occasions when paternalism is justified?

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Goal of Public Health Ethics

- To advance traditional public health goals
- while maximizing individual liberties
- and furthering social justice

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Kass' Principles of Public Health Ethics

1. Public health interventions should reduce morbidity or mortality;
2. Data must substantiate that a program (or the series of programs of which a program is a part) will reduce morbidity or mortality;
3. Burdens of the program must be identified and minimized;
4. Program must be implemented fairly and must, at times, minimize preexisting social injustices; and
5. Fair procedures must be used to determine which burdens are acceptable to a community. (Kass)

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Framework for ethical decisions 1

1. Define clearly the question/conflict
2. Find out all the relevant facts
3. Define the ethical and moral principles involved (Respect for Autonomy, Beneficence, Nonmaleficence, Justice, Fidelity)

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Framework for ethical decisions 2

4. Define the options available to resolve the question; in order to do this and select the option resulting in the more comparative good, there are still more considerations:
 - *Consequences*: the likely impact of each option on all parties involved
 - *Rights*: are basic rights at stake and what are the correlative obligations? ·
 - *Cost effectiveness*
 - *Justice considerations*

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