

Review article:

Public health ethics in India: Review

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Abstract

Along with concept of public health, there is no settled account of the moral concepts and methods of public health ethics. Systematic efforts to articulate ethical principles and frameworks to guide ethical inquiry in public health identify a number of general moral considerations that include Producing benefits, often but not exclusively health benefits, and often interpreted in health policy as a utilitarian commitment to maximizing aggregate health benefits , Preventing harms, often health harms, such as preventable morbidity and premature death etc.

Much work needs to be done to translate these general ethical considerations or some subset of them into guiding principles and frameworks for public health policy and practice. Such work entails defining them, determining their scope, specifying criteria for resolving conflicts among them, and so on. Such efforts have produced frameworks of unranked principles.

Keywords: Public health, stepwards model

Background:

Along with concept of public health, there is no settled account of the moral concepts and methods of public health ethics. Systematic efforts to articulate ethical principles and frameworks to guide ethical inquiry in public health identify a number of general moral considerations that include Producing benefits, often but not exclusively health benefits, and often interpreted in health policy as a utilitarian commitment to maximizing aggregate health benefits , Preventing harms, often health harms, such as preventable morbidity and premature death etc.¹

Much work needs to be done to translate these general ethical considerations or some subset of them into guiding principles and frameworks for public health policy and practice. Such work entails defining them, determining their scope, specifying criteria for resolving conflicts among them, and so on. Such efforts have produced frameworks of unranked principles.

Public health often depends on universal programmes which need to be endorsed collectively if they are to be successfully implemented. Although the initial liberal framework supports the promotion of public goods and services, it presents these primarily as ways of promoting individual welfare. Hence, it does not adequately express the shared commitment to collective ends, which is a key ingredient in public support for programmes aimed at securing goods that are essentially collective.²

The stewardship model:³

The stewardship model includes an obligation to reduce health inequalities and to pay special attention to the health of children and other vulnerable people.

On the basis of stewardship model *Concerning goals, public health programmes should:*

1. aim to reduce the risks of ill health that people might impose on each other;
2. aim to reduce causes of ill health by regulations that ensure environmental conditions that sustain good health,
3. such as the provision of clean air and water, safe food and appropriate housing;
4. pay special attention to the health of children and other vulnerable people;
5. promote health not only by providing information and advice, but also by programmes to help people overcome
6. addictions and other unhealthy behaviours;
7. aim to ensure that it is easy for people to lead a healthy life, for example by providing convenient and safe
8. opportunities for exercise;
9. ensure that people have appropriate access to medical services; and
10. aim to reduce health inequalities.

In terms of constraints, such programmes should:

1. not attempt to coerce adults to lead healthy lives;
2. minimise interventions that are introduced without the individual consent of those affected, or without procedural
3. justice arrangements (such as democratic decision-making procedures) which provide adequate mandate;
4. seek to minimise interventions that are perceived as unduly intrusive and in conflict with important personal values.

There are clear correlations between health and socio-economic status: in general, poorer health and less healthy behaviours are associated with lower socio-economic position.

The concept of stewardship means that liberal states have responsibilities to look after important needs of people both individually and collectively. Therefore, they are stewards both to individual people, taking account of different needs arising from factors such as age, gender, ethnic background or socio-economic status, and to the population as whole, including both citizens of the state, and those that do not have citizen status, but fall under its jurisdiction.

In our view, the notion of stewardship gives expression to the obligation on states to seek to provide conditions that allow people to be healthy, especially in relation to reducing health inequalities.

Patient Confidentiality:

Patients routinely share personal information with health care providers. If the confidentiality of this information were not protected, trust in the physician-patient relationship would be diminished. Patients would be less likely to share sensitive information, which could negatively impact their care.

Creating a trusting environment by respecting patient privacy encourages the patient to seek care and to be as honest as possible during the course of a health care visit. It may also increase the patient's willingness to seek care.

For conditions that might be stigmatizing, such as reproductive, sexual, public health, and psychiatric health concerns, confidentiality assures that private information will not be disclosed to family or employers without their consent.⁴

The obligation of confidentiality prohibits the health care provider from disclosing information about the patient's case to others without permission and encourages the providers and health care systems to take precautions to ensure that only authorized access occurs.

Appropriate care often requires that information about patients be discussed among members of a health care team; all team members have authorized access to confidential information about the patients they care for and assume the duty of protecting that information from others who do not have access. Electronic medical records can pose challenges to confidentiality. In accordance with the Health Information Portability and Accountability Act of 1997 (HIPAA), institutions are required to have policies to protect the privacy of patients' electronic information, including procedures for computer access and security.

While there may be cases where the physician feels naturally inclined to share information, such as responding to an inquiring spouse, the requirements for making an exception to confidentiality may not be met. If there is not explicit permission from the patient to share information with family member, it is generally not ethically justifiable to do so. Except in cases where the spouse is at specific risk of harm directly related to the diagnosis, it remains the patient's (and sometimes local public health officers'), rather than the physician's, obligation to inform the spouse.⁵

Unintended disclosures may occur in a variety of ways. For example, when pressed for time, providers may be tempted to discuss a patient in the elevator or other public place, but maintaining privacy may not be possible in these circumstances. Similarly, extra copies of handouts from teaching conferences that contain identifiable patient information should be removed at the conclusion of the session in order to protect patient privacy. And identifiable patient information should either be encrypted or should not be removed from the security of the health care institution. The patient's right to privacy is violated when lapses of this kind occur.

Patient autonomy:⁶

On the importance of the individual's ability to determine the course of their own life reflects the value of personal autonomy. It is important to recognise that autonomy is not just a 'negative' freedom from interference.

Literally, autonomy means 'self governance'. Its realisation requires, among other things, knowledge of the possibilities available, and the basic capabilities necessary to take advantage of them. Thus the liberal state attaches great importance to the universal provision of education. It is content to put in place policies that make education mandatory, while recognising that this infringement of individual freedom may not be acceptable to some libertarians. These infringements are seen as justifiable as they enable people to develop basic capacities that allow them to make full use of the opportunities available in a society that values equality of opportunity.

Recognising autonomy requires, in addition to universal provision of education, other policies that enable individuals to make their own way in the world and pursue their own personal goals. While the state cannot guarantee this, a liberal state will seek to promote it through policies aimed, for example, at minimising ill health, since this is an important obstacle to the achievement of independence and personal autonomy.

Overriding concerns can lead to the need to breach confidentiality in certain circumstances.

Exception 1: Concern for the safety of other specific persons

Access to medical information and records by third parties is legally restricted. Yet, at the same time, clinicians have a duty to protect identifiable individuals from any serious, credible threat of harm if they have information that could

prevent the harm. The determining factor is whether there is good reason to believe specific individuals (or groups) are placed in serious danger depending on the medical information at hand. An example is homicidal ideation, when the patient shares a specific plan with a physician or psychotherapist to harm a particular individual.⁷

The California Tarasoff case exemplifies the challenges providers face in protecting confidentiality. In that case a graduate student, Prosinjit Podder, disclosed to a counselor affiliated with Berkeley University that he intended to obtain a gun and shoot Tatiana Tarasoff. Dr. Moore, the psychologist, found Podder's threat credible. Dr. Moore then faced dual obligations: protect Tatiana Tarasoff from harm and protect Mr. Podder's confidentiality. Dr. Moore sent a letter to campus police about the threat. They spoke to Mr. Podder, told him to stay away from Tatiana, but determined he was not a danger to her. He later stalked, stabbed and killed Tatiana. Tatiana's parents sued campus police and the university's health service for failure to warn Tatiana. The lower court refused to hear the case, claiming that Dr. Moore had an obligation to protect Podder's confidentiality. Tarasoff's parents appealed and the California Supreme Court ruled that, "the discharge of this duty may require the therapist to take one or more of various steps. Thus, it may call for him to warn the intended victim, to notify the police, or to take whatever steps are reasonably necessary under the circumstances."

The implication of this ruling is that a duty to warn third parties of imminent threats trumps a duty to protect patient confidentiality, however, it is usually difficult for a therapist or health care provider to accurately ascertain the seriousness and imminence of a threat. Tarasoff has subsequently been interpreted to endorse the provider's duty to warn when a patient threatens an identifiable victim. Ethically, most would agree that a duty to warn an innocent victim of imminent harm overrides a duty to confidentiality, but these cases are rare and judgment calls of this sort are highly subjective. Hence, the duty to maintain confidentiality is critical, but may be overridden in rare and specific circumstances.⁶

Exception 2: Legal requirements to report certain conditions or circumstances

Our laws should be included provision of reporting of certain communicable/infectious diseases to the public health authorities. In these cases, the duty to protect public health outweighs the duty to maintain a patient's confidence. From a legal perspective, the State has an interest in protecting public health that outweighs individual liberties in certain cases. Local municipal code and institutional policies can vary regarding what is reportable and standards of evidence required. Stay informed about your state and local policies, as well as institutional policies, governing exceptions of patient confidentiality.

A Test for Breach of Confidentiality:

In situations where you believe an ethical or legal exception to confidentiality exists, ask yourself the following question: will lack of this specific patient concern information put another person or group you can identify at high risk of any form of serious harm? If the answer to this question is no, it is unlikely that an exception to confidentiality is ethically (or legally) warranted. The permissibility of breaching confidentiality depends on the details of each case. If a breach is being contemplated, it is advisable to seek legal advice before that disclosure.⁷

Confidentiality standards:

In many countries adolescents may seek treatment without the permission of their parents for certain conditions, such as treatment for pregnancy, sexually transmitted infections, mental health concerns, and substance abuse. Familiarize yourself with laws, as well as institutional policies, regarding adolescents and healthcare.

Public health activities routinely bring some of these moral considerations into conflict.

One major area of discourse and debate concerns the power of public health as an agent of the state to restrict individual choice in efforts to prevent disease and promote health. Many public health activities try to influence individual actions, though they may do so in more or less restrictive ways. Public health policy may eliminate choice altogether through, for example, compulsory quarantine of patients with infectious disease; restrict choice by, for example, banning smoking in public places or fluoridating public water supplies; guide choice through disincentives (e.g., taxes on health-harming goods, such as sugary beverages) and incentives (e.g., tax breaks on health-promoting goods); or inform choice through, for example, food labeling or media campaigns .

Harm Principle:

The analysis of which of these actions are or are not ethically and politically justifiable is often informed by the **harm principle**, originally articulated by **John Stuart Mill** . Mill argues “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. His own good, either physical or moral, is not a sufficient warrant” (Mill 1989). Mill qualifies this principle in various ways, for example, making exceptions for children and those cared for by others. But, in general the principle justifies state interference with individual liberty only when individual actions pose serious harm to others. The principle thus presupposes that behavior affecting only the self (“self-regarding behavior”) can be clearly distinguished from that affecting others (“other-regarding behavior”), which may be difficult in a public health context.⁸

Public health and the harm principle

To introduce Mill’s principle in this way is not to suggest that it provides a satisfactory answer to all the questions that arise in the context of public health. Nor does it commit us to the wider theoretical framework in which it was set out, or to claim that harm to third parties is always a sufficient legitimisation of coercion.⁹ Rather, we use it to illustrate that, even in an approach that seeks to ensure the greatest possible degree of individual liberty and the least possible degree of state interference, there is a core principle according to which coercive, liberty-infringing state intervention is acceptable: where the purpose is to prevent harm to others.¹⁰ Throughout this Report, we refer to this version of the harm principle as the *classical harm principle*.

Several of Mill’s observations are often overlooked, and we will use these to establish an initial framework for public health ethics that extends beyond merely preventing harms to others. We note, first, his comments about the type of people to which his principle applies; secondly, the type of goods that should be promoted by society; thirdly, his observations about means other than coercion that could be used to suggest behaviour change to people; and fourthly, his emphasis on individual liberty.

Consent:

Today the concept of consent is at the centre of clinical medicine. Although some of the issues addressed in the sphere of public health concern medical interventions, such as vaccinations, many others, such as the provision of health-conducive environments, occupational health and safety regulations or measures aimed at preventing excessive consumption of tobacco and alcohol, do not. The question is therefore to what extent consent is morally relevant in these areas. 20 Public health interventions may interfere to different degrees with people's choices or liberties. For example, in the case of quarantine and isolation the degree of intrusion is considerable, but restricting the movement of people suspected of having a severe infectious disease, whether or not they agree with it, can be justified on the basis of the classical harm principle. Many other interventions do not concern this degree of intrusion, and it is important to recognise the difference between consent requirements that are relevant in the context of clinical medicine and research, and those for infringements of people's choices or liberties in the non-clinical context of public health. 9

Paternalism:

Cases where harm to others is absent or less easily established stir much more debate because they raise the specter of paternalism.

Paternalism occurs when the state or an individual interferes with the preferences of a person for her own benefit.⁶ Indeed, public health action often seeks to influence human behavior that arguably does no harm to others. Because chronic diseases now account for the majority of deaths, and personal behaviors make a nontrivial contribution to their onset and progression, much public health research and action seeks to change behaviors whose ill effects are felt primarily by those who engage in them. The least controversial tactics for promoting behavior change are educational in nature-providing people with information, whether it be the calorie content of foods, the health effects of certain behaviors, and so on.

Private employers and state governments have ramped up their wellness programs, offering employees a variety of goods to participate in health screenings, on-site exercise programs, among other activities.

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