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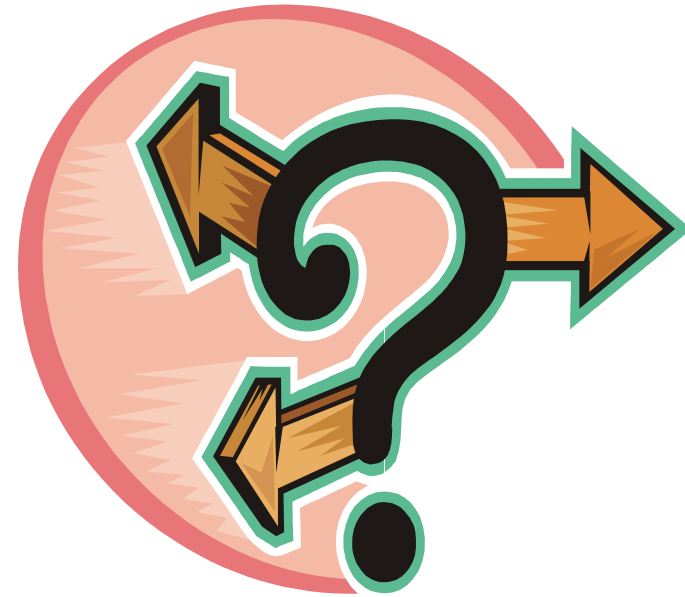
2010 Winter Scientific Meeting An Ethical Framework for Public Health

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The context of the debate

- Public health measures raise complex questions about the relationship between the state and the individuals and organisations that are affected by its policies.
- They also raise questions about the duties that individuals have towards each other.
- A substantial body of literature in political philosophy examines these relationships of duties and entitlements.
- The younger academic field of bioethics has also generated an influential body of literature and much of this work takes an individual-centred approach.



The context of the debate

- Public health, however, is not generally concerned with the *individual* level, but with the population level, and it is not always easy or appropriate to apply concepts such as autonomy, which carry considerable weight in the traditional bioethics literature, to the area of public health.



An ethical framework for policy



- A great deal of bioethical literature focuses on the way the individual can be protected in the medical context:
 - Consent
 - Confidentiality
 - Truth telling
- Public health programmes, by contrast, extend beyond the clinical context and focus on the population level, affecting the lives of the whole population, or large subgroups of the population.

An ethical framework for policy

- Many of these measures focus on prevention and may have implications for those who would not consider themselves to be ill.
- As a result they raise issues about the responsibilities and authority of the state and other agents whose policies and actions shape or affect people's lives.
- Much depends on the kind of intervention, the situation of those most directly affected by it, and the seriousness of the risks involved by implementing, or not implementing, a certain programme

The state and the citizen

- ***Libertarians versus collectivists***
- The relationship between the state's authority and the position of individual people and intermediate bodies such as institutions, schools and companies that are governed by its rules.
- This issue is central to political philosophy, and attracts a wide range of points of view.



The libertarian perspective

- At one end of the spectrum is the libertarian perspective, which affirms what are classically regarded as the 'natural' rights:
 - life,
 - liberty and
 - property.
- The authority of the state in these rights is limited to ensuring that members of the population are able to enjoy these rights without interference from others.
- This radically individualist point of view allows only a minimal state.

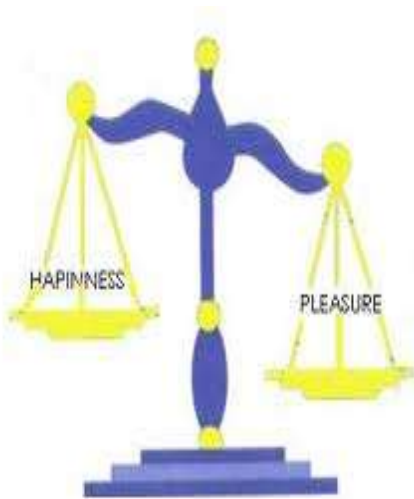


The libertarian perspective

- The States legitimate activities comprise:
 - Ability to defend itself from external aggression,
 - political institutions which provide authoritative statements of individual rights;
 - judicial institutions which determine when these rights have been violated; and
 - penal institutions to punish those who are found to have committed such violations.
- Beyond these institutions the libertarian state does not see the promotion of the welfare of its population as its proper role; so it provides little support for the establishment of public health programmes, except for those that are essential in a practical way to the enjoyment of the rights it recognises.
- One interesting manifestation of this was high Calvinism towards the end of the 19th Century

The collectivist point

- At the other end of the spectrum there is what can be called a collectivist point of view.
- In **utilitarian traditions** the primary aim is to maximise utility by focusing on achieving the greatest possible collective benefit. This means that actions or rules are generally measured by the degree to which they reduce pain and suffering, and promote overall happiness, wellbeing, or what might be called 'good health'.
- Hence, in the context of public health, when choosing between several competing interventions or programmes, states and policy makers ought to opt for those that are likely to produce the greatest aggregate benefit.



The collectivist point

- For example, in the case of an epidemic, a utilitarian approach would usually favour isolation and quarantining, whereas such measures would be likely to lead to considerable tensions in the libertarian framework sketched above.
- As this example illustrates, one of the reasons why utilitarian approaches are controversial is that, in principle, they may allow the welfare or interests of some people to be ‘sacrificed’ if this were to lead to an increase in overall welfare.



The collectivist point

- An alternative collectivist approach is found in **social contract theory**.
- Here, the state's authority is based on the collective will of a community (for example, as expressed in a democratic vote) to live together as an enduring nation state.
- The rights of individual citizens are dependent upon this shared will of their community.
- On this view, these rights do not constitute a limit to the state's authority to intervene in the lives of its citizens; instead the state's authority is properly exercised in that it realises the collective will of the community.
- This position will typically favour measures to promote the welfare of its citizens, including public goods and services of all kinds.

The stewardship model

- 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.
- 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.

The stewardship model



- Public policies should actively promote health, for example, by providing appropriate access to medical services, establishing programmes to help people combat addictions, and supporting the conditions under which people enjoy good health, such as through the provision of opportunities for exercise.
- Equally, concern for the needs of the population as a whole means that very demanding interpretations of individual consent as an expression of individuality and autonomy should be viewed with caution.
- Instead, democratic, transparent decision-making procedures can often ensure an appropriate balancing of the interest of individuals and those of society.

The stewardship model

- The core characteristics that public health programmes carried out by a stewardship-guided state should
 - aim to reduce the risks of ill health that people might impose on each other;
 - aim to reduce causes of ill health by regulations that ensure environmental conditions that sustain good health, such as the provision of clean air and water, safe food and decent housing;
 - pay special attention to the health of children and other vulnerable people;
 - promote health not only by providing information and advice, but also with programmes to help people to overcome addictions and other unhealthy behaviours;
- .

The stewardship model

- aim to ensure that it is easy for people to lead a healthy life, for example by providing convenient and safe opportunities for exercise;
- ensure that people have appropriate access to medical services; and
- aim to reduce unfair health inequalities.

The stewardship model

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



Third Parties

- Various third parties also have a role in the delivery of public health.
- These may be medical institutions, charities, businesses, local authorities, schools and so on.
- Where publicly funded, these institutions can be thought of as agents of the state and thus share the obligation to implement public health policies.



Third Parties

- On the other hand, many are not publicly funded, and may have agendas and particular goals of their own – such as charities that work with those whose health is damaged by addictions, and whose motivation may include particular cultural, religious or other values.
- This does not necessarily mean that their role is inconsistent with the ethical framework for public policy.
- Nor does it mean that they have no obligation to reflect on their role in public health.

Corporate Industry



- Corporate agents that are independent of government but whose activities affect public health include businesses such as food, drink, tobacco, water and pharmaceutical companies, owners of pubs and restaurants, and others whose products and services can either contribute to public health problems or help to alleviate them.
- Two principal ways in which one might approach the responsibilities of corporate agents.
- **First**, the view could be taken that, as long as companies adhere to the law, and fulfil their primary function, which usually is to satisfy their customers or shareholders, they have discharged their duties.
- Certainly, many companies operate in this way.

Corporate Industry



- **An alternative view** would be that corporate agents have more extensive responsibilities, both towards their employees and the society within which they operate.
- Recent years have seen a significant rise in corporate social responsibility initiatives
- The extent to which such initiatives are driven by marketing strategies rather than genuine social concern is difficult to assess.
- The emergence of corporate social responsibility is noteworthy nonetheless: if it is not driven by companies actively reflecting on their social responsibilities it seems more than likely that consumer expectations have played an active role and created a new kind of 'ethical' demand.

Corporate Industry

- It is reasonable to argue that commercial companies have responsibilities beyond merely complying with legal and regulatory requirements.
- There are numerous cases where the state intervenes to protect important goods, such as the health of workers, the environment, or the health of consumers, for example by banning certain types of ingredient.



Corporate Industry

- Regulation need not always be to the detriment of industry, but can be a driver of innovation.
- Recent trends have shown that the potential of health-orientated products is far from exhausted.
- This potential can be explored proactively through initiatives by the industry, or reactively, where the industry responds to regulation.

Coercive measures in place in Ireland

- There is a variety of coercive measures that the population in Ireland is already familiar with, ranging from legislative measures to civil agreements. For example:
 - ❖ legal restrictions on owning a gun;
 - ❖ tenancy agreements that restrict the level of noise that can be made;
 - ❖ legislation that restricts the level of noise that companies can produce;
 - ❖ health and safety legislation on the wearing of protective clothing;
 - ❖ speed restrictions on roads;
 - ❖ pedestrianisation of some city centres;

Coercive measures in place in Ireland

- ❖ restrictions on eating and drinking in public places (such as on buses or in 'alcohol control areas');
- ❖ The smoking ban, and
- ❖ planning regulations and building standards.



Concluding Comments

- Policy decisions cannot be made mechanically when a set of evidence is added to a set of ethical principles and economic considerations.
- Several criteria can ensure that evidence has some degree of robustness (peer review, not using research findings selectively or overstating them, acknowledging openly where there is disagreement).
- In practice, information about evidence and risks is often incomplete, ambiguous and contested, and may not lead by itself.

Acknowledgement

- This lecture draws extensively on the document published by the Nuffield Council for Bioethics, *Public Health: Ethical Issues*, 2007