Commentary

A Commentary on Jaffe and Hope's Proposed Ethical Framework

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Jaffe and Hope provide an insightful analysis of the ethics implicit in public health interventions. According to them, public health interventions are traditionally divided into two categories: (i) interventions that are beneficial to the recipients [and wider society] (for example, vaccinations); and (ii) interventions that are required to prevent such serious harm to the general population that coercive measures by the state is justified and regulated through public health law (for example, isolation and quarantine). Using the proposed provision of anti-retroviral treatment to all HIV-infected individuals, regardless of the degree of their immune suppression, as proposed by Granich *et al.* (2009), as an example, Jaffe and Hope argue that such a measure constitutes a third category of public health interventions (hereinafter referred to as 'category 3′ public health interventions) as they are neither unequivocally in the best interests of the recipients nor given within a clear legal framework designed for imposing restrictions on individuals who are a danger to public health. In addressing the issue of whether there are any widely accepted ethical models within medicine that allow some people to be given an intervention that, on balance, risks more harm than good for the sake of benefit to others (i.e., category 3 measures), Jaffe and Hope argue that 'the ethical framework and standards that have been, and continue to be, developed in the context of medical research provide a useful model for public health', and base their proposed ethical framework, thereon. In their view, category 3 public health interventions can ethically proceed if they meet six "necessary conditions".

While Jaffe and Hope's proposed framework is a welcome addition to the relatively nascent field of public health ethics, it is not clear why they omitted alluding to, and appraising the appropriateness of, pioneering public health ethics frameworks, such as those proposed in the last decade by Kass (2001), Childress et al (2002), Upshur (2002), and Gostin (2003), in relation to category 3 public health interventions / measures. Although they cite Gostin's 2002 seminal work on public health law, their inexplicable omission to discuss existing public health ethics frameworks gives the impression that Jaffe and Hope are either unaware of the existence of such proposed frameworks (which seems unlikely), or that they believe that such frameworks are inappropriate evaluative models for category 3 public health measures. The latter would be puzzling given the apparent similarities between all the proposed frameworks, to date, theirs included. If they believe the latter is applicable, the onus was/is on Jaffe and Hope to adduce relevant arguments to justify why this is so. Otherwise they risk seemingly reinventing the wheel. While there are distinct differences between Jaffe and Hope's framework and those that preceded it (for example, none of the earlier public health ethics

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frameworks regards an informed consent process as a necessary condition to implementing a public health measure), there are striking similarities too.

For example, Jaffe and Hope's third necessary condition (*the public health benefit cannot be produced by an alternative means that is ethically preferable*) is akin to Childress *et al.*'s *Least Infringement* principle, Kass' *Burden Minimisation / Alternative Approaches* principle, and Upshur's *Least Restrictive or Coercive Means* principle. Similarly, Jaffe and Hope's fourth proposed necessary condition (*the public health benefit is such as to justify the risk of harm to participants*) is akin to Childress et al's *Necessity* principle, Kass and Gostin's respective *Effectiveness* principles, and Upshur's *Harm* principle. Likewise, Jaffe and Hope's sixth necessary condition (*the public health measure is scrutinized by some properly constituted and appropriate independent body*) is akin to Childress et al's *Public Justification* principle, Kass' notion of procedural justice outlined in her principle of *fair balancing of burdens and benefits*, and similar in sentiment to Upshur's *Transparency* principle (although all three latter frameworks also differ in that they do not make reference to Norm Daniel's Accountability for Reasonableness model). Given these overall similarities, it is not clear if / how Jaffe and Hope's proposed "necessary conditions" differ, or are meant to differ, from the proposed "principles" enunciated in proposed frameworks of Kass, Childress et al, Upshur, and Gostin. Arguing that there is a distinction between a "necessary condition" and a "principle" is unsustainable as the latter could easily be phrased as a "necessary condition". For example, Upshur's proposed public health ethics framework posits the principle of *Reciprocity* (which has no parallel in Jaffe and Hope's model, although it would be very useful if incorporated). Rebranded as a "necessary condition" could see the principle of *Reciprocity* phrased as follows: "Those affected by a proposed intervention/measure should be adequately compensated and/or offered viable alternative interventions of equal or superior efficacy, if such alternate interventions exist". Using Granich et al's HIV treatment proposal as an example, the principle of *Reciprocity* would require public health authorities to prospectively put in place mechanisms that ensure that recipients who have adverse reaction to first-line ARVS are immediately switched to second-line therapies, at state expense. Furthermore, those who experience severe adverse reactions as a result of their treatment regimen must be fairly compensated.

While Jaffe and Hope's proposed framework is a valuable addition to current literature on public health ethics, it would be helpful to see a follow-up manuscript from them wherein they reconcile or distinguish their proposed public health ethics framework with/from those that have preceded it. This will strengthen not just their proposed framework, but also the field of public health ethics.

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Conflicts of interests

None declared.

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