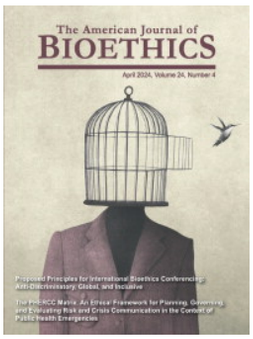

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OPEN PEER COMMENTARIES

Ethical Tradeoffs in Public Health Emergency Crisis Communication

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Spitale et al. (2024) address a public health ethics question of great importance: How should governments communicate with the public during public health emergencies? The article highlights several distinct facets of public health communication and proposes a variety of solutions for avoiding common pitfalls that arise during "Public Health Emergency Risk Crisis and Communication" (PHERCC, to follow the authors). We applaud the authors taking a serious and much-needed look at this question. In what follows, we raise a few critical comments about their framework and ethical tradeoffs in PHERCC.

Our first critical comment concerns a methodological assumption underpinning the framework—namely, that the three fundamental values in the framework would not conflict in the context of PHERCC:

> We defined the PHERCC process, we identified relevant ethical principles, geared toward guaranteeing respect for autonomy and fairness across the whole process, and we propose the application of said principles in each step. There are two assumptions with meta-ethical relevance in this reasoning. First, that *there are no tradeoffs between effectiveness, fairness, and autonomy; on the contrary, that aiming for fairness and respect for autonomy can increase the effectiveness of PHERCC actions*. (Spitale et al. 2024, 73, emphasis added)

We were intrigued by this assumption. After all, public health ethics frameworks often focus on tradeoffs between values such as effectiveness, fairness, and autonomy. Think, for instance, of Childress et al.'s influential article, "Public Health Ethics: Mapping the Terrain" (Childress et al. 2002), where a fundamental "practical question" that needs to be addressed is "how can we resolve conflicts between [general moral considerations, such as producing benefits or respecting autonomous choices and actions]," (Childress et al. 2002, 171). We wondered whether the authors believed there were features about PHERCC that warranted optimism that value conflict would not arise—despite the prevalence of such conflict in other areas of public health policymaking. We were especially curious about the assumption of congruence because the authors themselves hint at one such potential ethical conflict. They discuss the importance of respecting privacy—presumably grounded in considerations of respect for autonomy or fairness understood as respect for basic liberties—but also acknowledge that in emergencies, violations of privacy might yield significant health gains, which utilitarian reasoning would ostensibly support (Spitale et al. 2024, 67). This discussion of privacy—and the assertion that PHERCC efforts must incorporate privacy protections—seems to assume that there can be tradeoffs between privacy and public health effectiveness and therefore these tradeoffs must be managed. They recommend that PHERCC should align with the Siracusa Principles, which articulate standards that must be met when governments respond to a public emergency in a way that restricts or limits human rights; for example, one standard is that "in applying a limitation, a state shall use no more restrictive means than are required for the achievement of the purpose of the limitation." (American Association for the International Commission of Jurists 1984). The Siracusa Principles, themselves, assume that there can be tradeoffs between having a more effective emergency response and human rights; the Principles specify that certain ways of responding to those tradeoffs—for example, limiting rights more than is strictly necessary—are unacceptable.

Our worry that the authors downplay value conflicts becomes that much more forceful when one examines how the authors understand the three foundational ethical norms in their framework:

> As PHERCC's aims are derived from those of public health responses, the most relevant high level ethical implication is the need to balance three elements of a

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> triad: utilitarian notions of effectiveness, intended as the ability to produce benefit in real life conditions (Cartwright 2009); autonomy, intended following [sic] Beauchamp and Childress' "nonideal conditions" as the combination of intentionality, understanding and non-control (Beauchamp and Childress 2013, 104–105); and fairness, understood in light of Rawls' liberty principle as a societally compatible implementation of autonomy which helps regulating [sic] the potential clash of individual autonomies, i.e.: a comprehensive set of basic rights and liberties that can coexist with similar rights for all (Rawls 1985). (Spitale et al. 2024, 69)

As this quotation suggests, the authors define fairness in terms of John Rawls' first principle of justice. This principle requires the protection of various "basic liberties" that cannot be violated for the sake of realizing other goals—such as "utilitarian notions of effectiveness" or better realizing Rawls' second principle of justice, the difference principle (Rawls 1999). The authors' choice to understand fairness in terms of Rawls' first principle of justice strikes us as odd for two reasons: first, it overlaps with the understanding of autonomy the authors discuss, and second, it comes at the expense of fairness understood in terms of equity. These worries also further exacerbate our misgivings about the authors' views on ethical tradeoffs.

To begin with the worry about overlap, Rawls' first principle's emphasis on respect for liberty seems strikingly similar to Beauchamp and Childress' notion of respect for autonomy. Indeed, a key component of Rawls' justification of the lexical priority of liberty concerns protecting our "moral power" to be able to develop, revise, and pursue a conception of the good over the course of one's life[1]—a moral power that resembles autonomy in Beauchamp and Childress's sense. Accordingly, two of the three values in Spitale et al.'s framework overlap significantly. This overlap matters, in part, because it constitutes a potential explanation why the authors might think there are relatively few conflicts between values in the context of PHERCC. After all, if two values are more or less the same, then they will be less likely to conflict with one another. Yet the similarity of fairness in the authors' sense and respect for autonomy leads to a natural misgiving: the authors have selected an unduly narrow set of values as the basis for their framework, and this undue narrowness ultimately leads the authors to *understate* the extent of ethical tradeoffs in PHERCC.

To substantiate this misgiving, consider the fact that Spitale et al.'s understanding of fairness in terms of Rawls' first principle comes at the expense of a different understanding—fairness as the fair allocation or distribution of goods, opportunities, powers, and burdens. We will call this understanding of fairness "fairness as equity." The fact that Spitale et al. neglect fairness as equity is curious in part because much of public health ethics literature involves spelling out the implications of this understanding of fairness for public health—and, as noted in the passage above, the authors are concerned with values that are especially salient to public health responses. Think, for instance, of Powers and Faden's discussion of systematic disadvantages in well-being—where social structures impede the well-being prospects of members of social groups pervasively, profoundly, asymmetrically, and near-inescapably (Powers and Faden 2019). Or think of Daniels' emphasis on how public health is integral to enjoying "fair equality of opportunity," a component of Rawls' *second*, equity-focused principle of justice (Daniels 2007). Indeed, a central theme in public health ethics is the tension between utilitarian notions of effectiveness and equity (Faden, Bernstein, and Shebaya 2022).

If we replace the understanding of fairness that the authors supply with fairness as equity, there are two noteworthy upshots. First, the framework contains a set of values that better capture ethical values that are especially salient for public health. Second, we also see many more ethical conflicts that require tradeoffs.

To illustrate this second upshot, consider a communicable disease that disproportionately affects certain groups in a population. Communicating to the public that this disease primarily affects these groups could respect autonomy or promote overall well-being. At the same time, however, emphasizing that only some groups are at serious risk could also expose members of those groups to stigma and disdain, especially if the affected groups are already subject to discrimination or unfair disadvantage. A recent example is the mpox outbreak of 2022–2023, in which most reported cases were among men who have sex with men.[2] Consider a government's decision to clearly state, as part of its communication with the public about the mpox outbreak, that men who have sex with men are at higher risk of being exposed to mpox than the general population. Such communication provides information to men who have sex with men, and this information might help

[1]See, e.g., (Rawls 1993, 310–24).

[2]See, e.g. World Health Organization, Questions and Answers, Mpox (monkeypox), accessed 11 December 2023.

them to protect themselves (for example, by getting vaccinated against mpox virus). But such communication also risks stigmatizing men who have sex with men. This stigma—and the discrimination that may accompany it—are forms of group-based inequity. Thus, there is a tension between effectiveness and autonomy on the one hand, and fairness as equity on the other. Ideally, governments can address this tension by designing communication strategies that clearly indicate which communities are most affected while minimizing the risk of stigma, but to do this, they must recognize that this tension exists.

Or consider the fact that older individuals and people with various comorbidities are at especially high risk of becoming seriously ill from a COVID-19 infection. Here, again, emphasizing the elevated risk of these groups in public health communications is ethically fraught precisely because ethical values come into tension. At the height of the pandemic, groups at elevated risk faced stigma as well as resentment from low-risk groups, including calls for increased isolation of the higher-risk groups to preserve liberties for low-risk groups. Emphasizing the higher risks of some groups may have led individuals to take fewer precautions and thereby (indirectly) impose greater risk on at-risk individuals. This is not to say that PHERCC should have *omitted* this information, but rather to highlight that PHERCC will often involve tradeoffs between different values.

Although we agree with the authors that seeking coherence among diverse values is generally preferable and often possible in the design of public policies, including policies about risk and emergency communications, coherence is not always possible. Thus, an ethics framework for PHERCC should not only identify ethical values that should guide the design of PHERCC—as the authors' framework does—but also help users identify and resolve tradeoffs between these values. Indeed, ethics frameworks are often motivated, at least in part, by the need to help decision-makers identify and resolve conflicts between distinct values, including frameworks created specifically to help policymakers ethically analyze public health programs and policies (Barnhill and Bonotti 2022; Bernstein et al. 2020; Childress et al. 2002). A framework that would be especially useful for moral reasoning in PHERCC communications would give fairness as equity a more central place, and it would better enable decision-makers to articulate and identify potential tradeoffs or conflicts between different ethical values rather than assuming coherence.

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