Ethics in Public Health

Carcinogenic Plumes and Aerophobia: Ethical Tensions in the Public Smoking Debate

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In the rising tide of anti-tobacco legislation, a new wave of indoor smoking regulation has begun to target restaurants, bars, and other establishments. This column reflects upon ethical tensions in the public smoking debate. Specifically, when is governmental action to restrict an adult person’s freedom to smoke tobacco justified? What further concerns do institutional policies need to address?

● The Harm Principle

In his famous essay, On Liberty, British philosopher John Stuart Mill wrote “[t]hat the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others.” That public health powers ought only be exercised to limit individual liberty when doing so would prevent or reduce harm to others resonates strongly as a foundational benchmark for contemporary public health policy and practice. A more developed, contemporary framework adds a secondary set of justifying conditions, some already implicit in the harm principle itself. Public health measures must target an identified, scientifically demonstrated harm and must be effective (or at least probably so) in achieving their intended purpose. Where individual liberty is infringed, the degree of infringement must be proportional with the benefits outweighing the loss of freedom or other harms. On a modified version of proportionality, one that gives greater presumptive weight to respect for autonomy, public health initiatives must be designed to achieve their goals with least infringement on individual freedoms. Finally, use of legal authority must be necessary, such as when voluntary compliance has been or likely will be ineffective, and its rationale must be sound and transparent to the public, especially to those directly affected.

Indoor smoking bans readily satisfy these justificatory conditions. The serious health effects of prolonged and intense secondhand smoke exposure are well-documented, the health benefits of reducing exposure established. Indoor smoking bans not only satisfy the test of proportionality, they are the least restrictive alternative (designated smoking areas have been tried) compatible with public health goals. While many corporations and businesses have voluntarily chosen to adopt no-smoking rules for the workplace, others, notably restaurants and bars with a smoking clientele, have been more reluctant, giving warrant to legal mandates. One article in this issue of JPHMP presents early empirical evidence of strong compliance with public smoking bans in restaurants and bars; another finds that, contrary to the complaints of the hospitality industry, smoking bans may actually attract more customers. This work furthers the case that risk reduction and harm prevention outweigh purported economic costs for such small businesses and offers models for future study.

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If “smoker’s rights” end where proven risk of harm to others begins, the very same analysis supports smokers’ rights to be let alone in the privacy of their own homes and automobiles, and in the outdoors. In response to calls to marginalize, if not ban, outdoor smoking altogether from the college or corporate campus and elsewhere, the smoker might well cite Mill’s admonition that “[t]here is a limit to the legitimate interference of collective opinion with individual independence.”

Parentalistic interventions to protect people from themselves are rarely defensible. (Laws restricting teen/young adult access to tobacco, also discussed in this issue, exemplify that prevention sometimes justifies crossing this line.)

Other Ethical Concerns

The harm principle gives strong support to public smoking restrictions, but it does not do all the work. Tobacco-related illnesses impose large and costly burdens on the health care system and on society. In the global assault on tobacco, appeal to the values of health and to the just distribution of burdens, costs, and resources plays an important role; illness from secondhand smoke contributes (modestly) to these enormous burdens.

Policy makers and businesses can face other, perhaps more immediate, concerns. In a sometimes politicized discourse, taking a stand for public health and against tobacco or the tobacco industry—in any of a number of ways—has become in itself a moral cause. Where one stands can be a test of character—a statement and symbolic expression of values. Questions and challenges range widely—from investment decisions of pension plans to acceptance of tobacco money by universities to support for anti-tobacco legislation. And smoking rules directly implicate an institution’s role as employer, raising issues of fairness to the workforce, both smokers and nonsmokers. Ironically, hospitals face a potentially complex web of concerns. Sending smokers outside to shield patients and staff is an easy decision, consistent with a hospital’s moral and institutional mission. But should hospitals (or corporations for that matter) provide a designated smoking area (indoors? sheltered?) to limit time off the job and away from the bedside, and, where required, apply for a waiver from their state’s legal ban on indoor smoking to do so? Does compassion and support for families, especially those sitting vigil for a dying loved one, mean offering a designated smoking area reasonably close to the ICU? If a hospital or medical school within a university system bans indoor smoking, must it speak out against acceptance of tobacco money elsewhere in the university? Is it hypocritical (immoral?) to accept tobacco industry funds even if those dollars support commitments to promoting health and saving lives? (As discussed in this issue of JPHMP, nonprofit groups may hold different views.)

Conclusion

“Take it outside!” is a cultural norm for the workplace and a battle cry for public smoking regulation. The public health imperative to shield against the risks and harms of indoor secondhand smoke exposure gives strong ethical warrant to the proliferation of targeted indoor smoking regulations, such as that in New York and Massachusetts. The harm principle does not capture the full complexity of the debate, but it illuminates important moral lines between protecting the public’s good and parentalism, captive indoor exposure and the outdoors, and legitimate concern for carcinogenic plumes and aerophobia.

REFERENCES