

Avian & Human Influenza and Humanitarian Action

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Issue paper 2. AHI Pandemic Preparedness. Ethical Issues and Humanitarian Action¹

“Its not going to be the individual ...technical (public health) decisions that are going to hold our society together in the face of an immense struggle with an influenza pandemic” but, rather, “Its going to be a shared set of values, a shared ethical framework that’s going to be the glue that will hold together societies struggling with enormously difficult choices.”

Dr. Peter Singer, University of Toronto, co-author of "Ethical Considerations in Preparedness Planning for Pandemic Influenza" Nov 2005

The ethical factor in AHI decision-making - the extent to which decisions of governments and other authorities are fair, transparent, and equitable in the sense of addressing individual and community needs and concerns in a manner that is proportionate and not discriminatory – has significant implications for the success or failure (a) of planning and preparedness activities and (b) attitudes and behaviour by individuals and communities once a pandemic is suspected or declared. In addition, the level of trust between authorities and concerned citizens is an important variable that is likely to have a variety of implications.

It is within this context that an anecdotal list of issues and queries are itemized to facilitate reflection and brainstorming. The attached, Annex I, is primarily concerned with ethical considerations from a health perspective but is also of value to other areas of human activity.

Recent times have seen a surge of interest, both in the media and elsewhere, in the ethical dimension of AHI decision-making. This is in contrast to earlier reporting in the media when much of the focus was on technical matters including the nature of the virus, the role of migratory birds, surveillance systems, medical research, and economic implications. However, a variety of recent fora and electronic discussion groups have seen governments, civil society actors, human rights entities, institutes and individuals query the ethical basis on which decisions are made. A common theme is the importance of fair access to limited resources (including financial, medical, and technical) so that socio-economic, geographic,

¹ This is a cut + paste from different sources including, for example, the Flu Wiki site. Annex I, in particular, draws heavily on “Stand on Guard for Thee, Ethical considerations in preparedness planning for pandemic influenza”, a report of the University of Toronto Joint Centre for Bioethics, November, 2005. (*available: <http://www.utoronto.ca/jcb/home/documents/pandemic.pdf>*) It also draws on other resources such as the WHO checklist for influenza pandemic preparedness planning.

political and other factors do not dictate decisions in a manner that is discriminatory to those who are least powerful. An over-riding concern, which is of direct interest to humanitarian actors in the context of a pandemic, is that threats to human survival should not be exacerbated by discriminatory policies and practices.

Ethical issues that may be of concern, beyond health-specific considerations, include:

1. In the absence of transparent and accountable governance systems, and the reasonable assumption that proximity to centers of power and prized resources will be a significant factor in survival chances, do humanitarian and other actors have a responsibility to comment on the *status quo* (namely comment on corrupt or abusive practices that diminish the survival chances of others) and communicate the *full* nature of the risk in an objective fashion? What are the implications of this for humanitarian continuity and access to vulnerable populations?
2. In a situation where a system of triage to life-saving resources (food, water, shelter supplies, regular health care etc) is unavoidable, what criteria should shape humanitarian planning and programming?
3. Pandemic-driven “closed borders” will have dramatic implications on the right to asylum, as well as other population movements, including the right to return. Are current policies and programmes adequate? What additional measures, if any, need to be taken in this regard?
4. In settings where individuals are internally displaced as a result of repressive measures by governments or other authorities, what are the potential ethical issues that may arise for such individuals?
5. In settings where individuals are displaced as a result of disasters or other such phenomena, what ethical considerations, if any, are likely to obtain over and above those that confront other vulnerable groups?
6. Who, beyond health care personnel, should have priority access to anti-virals and health safety equipment within the humanitarian context? In other words, who are the “essential staff” that are critical to the maintenance of humanitarian operations?
7. What ethical issues need to be addressed in the face of a quarantine that restricts freedom of movement of humanitarian personnel and, by extension, has implications for family cohesion?
8. What ethical considerations should guide staff safety measures? In this connection, does the objective of “operational continuity” over-ride other concerns?
9. Given that the ability to influence decision-making, including access to resources, does not occur within the context of a level playing field at the international level, or in most national settings, does the humanitarian community have a responsibility to advocate for greater solidarity and fair access to resources in the current pre-pandemic phase?
10. Other, other ?

SUBSTANTIVE VALUES

Individual liberty: In a public health crisis, restrictions to individual liberty may be necessary to protect the public from serious harm. Restrictions to individual liberty should:

- be proportional, necessary, and relevant;
- employ the least restrictive means; and
- be applied equitably.

Protection of the public from harm: To protect the public from harm, health care organizations and public health authorities may be required to take actions that impinge on individual liberty. Decision makers should:

- weigh the imperative for compliance;
- provide reasons for public health measures to encourage compliance; and
- establish mechanisms to review decisions.

Proportionality: This principle requires that restrictions to individual liberty and measures taken to protect the public from harm should not exceed what is necessary to address the actual level of risk to, or critical needs of, the community.

Privacy: Individuals have a right to privacy in health care. In a public health crisis, it may be necessary to override this right to protect the public from serious harm.

Duty to provide care: Inherent to all codes of ethics for health care professionals is the duty to provide care and to respond to suffering. Health care providers will have to weigh demands of their professional roles against other competing obligations to their own health, and to family and friends. Moreover, health care workers will face significant challenges related to resource allocation, scope of practice, professional liability, and workplace conditions.

Reciprocity: This principle requires that society support those who face a disproportionate burden in protecting the public good, and take steps to minimize burdens as much as possible. Measures to protect the public good are likely to impose a disproportionate burden on health care workers, patients, and their families.

Equity: All patients have an equal claim to receive the health care they need under normal conditions. During a pandemic, difficult decisions will need to be made about which health services to maintain and which to defer. Depending on the severity of the health crisis, this could curtail not only elective surgeries, but could also limit the provision of emergency or necessary services.

Trust: Trust is an essential component of the relationships among clinicians and patients, staff and their organizations, the public and health care providers or organizations, and among organizations within a health system. Decision makers will be confronted with the challenge of maintaining stakeholder trust while simultaneously implementing various control measures during an evolving health crisis. Trust is enhanced by upholding such process values as transparency.

Solidarity: As the world learned from SARS, a pandemic influenza outbreak, will require a new vision of global solidarity and a vision of solidarity among nations. A pandemic can challenge conventional ideas of national sovereignty, security or territoriality. It also requires solidarity within and among health care institutions. It calls for collaborative approaches that set aside traditional values of self-interest or territoriality among health care professionals, services, or institutions.

Stewardship: Those entrusted with governance roles should be guided by the notion of stewardship. Inherent in stewardship are the notions of trust, ethical behaviour, and good decision-making. This implies that decisions regarding resources are intended to achieve the best patient health and public health outcomes given the unique circumstances of the influenza crisis.

PROCEDURAL VALUES

Reasonable: Decisions should be based on reasons (i.e., evidence, principles, and values) that stakeholders can agree are relevant to meeting health needs in a pandemic influenza crisis. The decisions should be made by people who are credible and accountable.

Open and transparent: The process by which decisions are made must be open to scrutiny, and the basis upon which decisions are made should be publicly accessible.

Inclusive: Decisions should be made explicitly with stakeholder views in mind, and there should be opportunities to engage stakeholders in the decision-making process.

Responsive: There should be opportunities to revisit and revise decisions as new information emerges throughout the crisis. There should be mechanisms to address disputes and complaints.

Accountable: There should be mechanisms in place to ensure that decision makers are answerable for their actions and inactions. Defence of actions and inactions should be grounded in the 14 other ethical values proposed above.