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The complex ethics of reopening America

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Since the pandemic reached U.S. shores, public health experts and government officials have stressed aggressive social distancing policies in order to "flatten the curve" and reduce the spread of COVID-19 and prevent the health care system from being overwhelmed. For months, state and local government have shuttered restaurants and bars, closed

schools and "nonessential businesses," and initiated shelter-in-place orders.

But such policies have serious economic costs, both immediate and long-term. When, and how, should social distancing measures be lifted, and what sorts of policies should replace them? Some contend these are ethical questions that require taking into account the benefits of social distancing while recognizing the trade-offs involved.

States have already loosened restrictions and begun to reopen parks, beaches, and businesses. More plans to lift social distancing measures will be announced in the coming days, weeks, and months. In an effort to inform these plans, a team of scholars from the Berman Institute of Bioethics and SNF Agora Institute has drafted a working paper called "Grappling With the Ethics of Social Distancing: A Framework for Evaluating Reopening Policies." The document—authored by Justin Bernstein, Brian Hutler, Travis Rieder, Ruth Faden, Hahrie Han, and Anne Barnhill—guides users through a six-step ethical assessment of reopening policies. When and how to reopen our society is not merely a matter of epidemiology and economics, the paper begins; these vital decisions require us to raise questions about our society's shared values: promoting well-being, liberty, and justice.

The Hub spoke with lead author Bernstein, a postdoctoral fellow at the Berman Institute, about the philosophy behind the document.

When did you start this paper and what prompted it? Was it one particular state's reopening policy?

Actually further back. In mid-March the seeds for this were planted. My co-authors and I were talking a fair amount about social distancing, how long it would go on for, what potential costs it could have, and at what

point people would start to openly disobey or question the legitimacy of social distancing policies. So that was what got us on this path. And then as the conversation shifted more toward thinking about how to reopen society, we shifted our focus to those sorts of questions.

What was your overall aim with this document. What do you hope to provide to people?

There's one really big point that we want to hammer home, which is that when to reopen the economy and how to reopen it is a matter of ethics. Recently, some governors have been saying that when to reopen the economy is a matter of science, not politics. One thing we wanted to do was push back on that a little bit. There are value questions here, not just scientific ones about when and how to go about reopening. Relatedly, we wanted readers to engage in the kind of reasoning that bioethicists like me and my colleagues would engage in when it comes to thinking about when and how to reopen society.

A second goal was to convey just how hard it is to figure out when and how society should be reopened. Whatever we end up doing will involve certain trade-offs of different values, and we wanted to make clear the different sorts of values at stake. For instance, when we reopen society almost certainly that will lead to more deaths from COVID-19 and risks to public health. At the same time, keeping society closed indefinitely would have its own huge costs, and so we can't just wait until vaccines are developed either. We're trying to articulate the cost on both sides, continued social distancing and different reopening plans, and helping people see what is the ethical significance of these costs.

You're drawing on existing public health ethics frameworks that are designed to help decision-makers think through these hard choices. Is there one

template, perhaps an example from history, that can help guide our decision-making?

We drew on a lot of frameworks, one developed by James Childress and ones by our very own Ruth Faden, Jeffrey Kahn, and Nancy Kass.

I'll give you an example of how those frameworks are meant to work. Imagine somebody is thinking about whether to institute a soda tax, and so then you start thinking: OK, will this be an unjust infringement on individual liberty? Will this have regressive effects on people who consume soda at higher quantities? Is there some other way we can go about trying to lower soda consumption, or incidence of obesity, which might avoid those sorts of ethical worries about that policy? Those frameworks are really good for that sort of thing. So we were taking them and applying them to this problem. The difference is this problem is huge, and the frameworks we're drawing on were not designed to assess huge problems. We are trying to expand them to be more responsive to the particularities of this situation.

This is an immense problem, and there's so much uncertainty. One group or model says the number of lives lost to the virus could be 200,000. Another says 2 million. Why are the numbers so hard to nail down?

At least as of this interview, there's disagreement about different features of the virus itself. Modelers have to make all kinds of assumptions when they create a model that's intended to predict the overall number of deaths from the disease. And to be clear, this is not to say that those models are not useful or good. It's just that there are a lot of unknowns, and when you're using models with a lot of unknowns you get very different results. And then there are questions about which one

do you trust? That's a very difficult kind of question to answer.

In the paper you ask: Whose voice wins out and who bears the burden of proof for showing that a policy is justifiable? That's an interesting question. Who in the end makes this decision? Some say let's listen to the scientists, but the elected officials will say I make the decision.

I think that's another thing that this pandemic has raised, in terms of ethics questions, about political morality in particular. Who has the right to make decisions here? To tell a very simplistic story about how our democracy works, you might think that ordinarily we would vote and elected officials would make decisions over time. They would try to get feedback from constituents, adjust accordingly, and get held accountable at the polls. But that's not how this has played out. I think that raises some interesting ethical questions. For how long do governors have these sorts of powers to shut down society, and will there be a fight over that? From an ethics perspective, we're also really interested in how governors can make sure that people's voices are heard and they have input into this decision-making process, given that people disagree about the different values at stake.

But let me be clear: It's incredibly important that we have experts in economics, in epidemiology, and less discussed fields like childhood development to weigh in and be heard. We need to draw upon all of them to get a full picture of how all the different individuals, populations of people are affected or would be affected by various courses of action.

It sounds to me, and correct me if I'm wrong, that the current state of U.S. politics is making our decisions

even more difficult than they need to be. There is such mistrust and disagreement.

I would agree with you.

There will be costs, trade-offs no matter what we do. This paper seems to be saying that there's no one solution where everyone is going to be impacted equally, so let's make the most informed decisions we can for the greater population.

Absolutely. A lot of the discussion about bioethics during this time has focused on how do we decide who gets a ventilator: who lives and who dies. That's a tragic situation. That's a situation where no matter what you do, there's a sense that you're not fulfilling your moral obligations to somebody. There's also a tragic situation for people who are making decisions about social distancing and reopening policies. People are going to lose out, no matter what we decide.

As to your point about making an informed decision, that's absolutely right. It's very important that governors have all the relevant information and they're responsive to evidence. I think it's also really important that they make decisions that are transparent. They need to convey their reasoning to the public. And finally, I would say it's not just an informed decision about the science, it's also important that they make a decision that's responsive to those different sorts of values that we're trading off against. Being able to articulate those values, and say why they made the call the way that they did, that's very important.

There's one other thing you said that I'd like to address, which is, Do we do the thing that is best for the population as a whole?' We think that there are three kinds of broad values at play here, and they are touched on in steps 2, 3, and 4: people's well-being, especially their economic

interests and health; liberty and whether there's an unjust infringement on privacy or freedom of movement or freedom of association; and then there's justice, which has to do with the fair distribution of benefits and burdens of a policy. We don't take a stand on what the right policy is; we're just trying to help people think through it.

Describe what an ethical framework is, all the things you have to weigh. It sounds like the most gargantuan pros and cons list you could possibly imagine.

I think that's a good way of putting it. It's like a huge, and very complicated, pros and cons list. But it's not just pros and cons. There are pros along different kinds of dimensions. There are pros in terms of justice and cons in terms of justice. There are pros in terms of economic impacts and cons in terms of economic impacts. It's also worth noting that for some sorts of policies, weirdly enough, there are pros and cons both for the same value. For example, just take public health. On the one hand, social distancing is obviously beneficial at reducing transmission of COVID-19 and flattening the curve. On the other hand, there are real worries about people who are currently in stages of recovery, from say opioids or substance abuse, about their treatment being disrupted.

To take another example, if in fact social distancing does have really bad effects on the economy, if we were to prolong social distancing that would have bad public health outcomes like lack of access to adequate nutrition, or being unemployed. In a sense there's a real worry that some policies that might be helpful from a public health perspective will be harmful along another dimension of public health, and so you have to weigh those as well.

One might think that reopening America, and what's happening in states like Minnesota, Georgia, and

Florida, is good for the economy, right? But if COVID-19 cases increase and there are more cases and more deaths, that could have economic costs, too. So it's not so simple.

Yes, absolutely. Even if you just take the economic perspective, maybe you get a bump in the short term, but in the longer term if it's deemed necessary to socially distance again, if we're in danger of having so many more cases that we need to flatten the curve again, that could be economically worse in the longer run.

It sounds like finding a one-size-fits-all approach to this is really impossible.

Yes, that's absolutely right. I think this is one of the key things we really wanted to get across with the framework, is that different people are going to be affected differently by whatever policy we undertake, and that leads to really difficult questions about fairness. There's no magic bullet.

I'll illustrate with an example. School closures, they're very bad for children. Children lose between half and all of the achievement growth in math, according to one study mentioned prominently in a New York Times editorial. We're worried about rates of child abuse increasing. Children are losing out in a lot of respects here, and moreover, children aren't the ones who are most at risk from the disease. So, they're not the ones who are benefiting, especially—at least not directly.

When you see that, a natural thought is, OK, what can we do about this next? Part of what the framework is supposed to do is to help people see what kinds of room we have for remedial measures or mitigating the

harms that children are particularly exposed to. For instance, children, especially from low-income families, weren't getting access to lunch that they depended on. That's a place where you could say, well, if we're going to do school closures, what we also should do is make sure that they can get access to their lunches at churches. You start to look for policies like that as you become more aware of how different groups are differentially impacted.

The paper addresses making these hard choices and actually implementing informed policies. You've talked about being transparent and getting all these people together, making sure the public also has a say in what we decide to do. How do we pull this off?

I think it requires a fair amount of judgment. There's no magic formula where you can just sort of add up the different kinds of interests and come up with the decisive 'this is the right answer.' You basically have to try to canvass for each policy the benefits: the advantages and disadvantages of it with regard to how well it promotes well-being; how well it respects liberty; and how fair it is. And that's going to require judgment that we can't just sort of break down into a formula. We're of the mindset that when doing ethics, especially in a situation like this, it's not like you can just say we have to produce the most utility overall.

How do you hope this document is used?

We're trying to boil down the framework to its essence for the purpose of potentially being usable by people who are, say, staffers to people in positions of power. We're about to reach out to mayors and governors.

We also want it to be, more generally, helpful for having public

discussions about the ethics of reopening society and thinking about the pros and cons. We're trying to make it accessible for the general public so that they can think along as well and articulate the sorts of moral considerations that are relevant. And finally we're spinning off a bunch of different pieces. For example, we're really interested in thinking about the intergenerational justice issues that I mentioned earlier, and how this is clearly affecting less advantaged members of our society.

The conversation should begin immediately, right?

Yes. And this goes back to your first question: When did you start working on this? The document wasn't in its current form, obviously, but we started working on this back when social distancing was just beginning. Even though it feels like it's been a very long time during this whole process, from our vantage point, it's been moving incredibly quickly. It's been tough to keep up with all the developments and to be relevant, we would like it to get out much sooner rather than later.

More information: bioethics.jhu.edu/research-and … f-social-distancing/

Provided by Johns Hopkins University

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