

Public Health Ethics and Providing Ethics Advice to Policy-Makers During a Pandemic

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Disclosure

- Ontario COVID-19 Vaccine Distribution Task Force
- Ontario COVID-19 Bioethics Table
- Public Health Agency of Canada Public Health Ethics Consultative Group
- WHO Ethics & COVID-19 Working Group
- WHO ACT Accelerator Ethics & Governance Working Group

Outline

1. Ethics cannot simply be about 'problematizing'
 - example: critical care triage
2. Ethics must take seriously the inevitability of trade-offs
 - example: lockdowns; vaccine prioritization
3. Ethicists cannot be the 'owners' of ethics
 - example: visitor policies
4. What is right for the individual may not be right for the public
 - example: long-term care 'cohorting'; health care consent; vaccine dose interval
5. Are we more utilitarian during pandemics?
 - example: speed vs. equity in vaccine rollout

Ethics cannot simply be about 'problematizing'

Inadequacy of ethics as 'problematizing'

Academic bioethics largely (but not solely) focuses on external critique, 'problematizing', and identifying ethical issues and concerns, with the (often long-term) aim of remedial action.

Inadequacy of ethics as 'problematizing'



Inadequacy of ethics as 'problematizing'

This 'problematizing' function remains critical for ethics and in ethics advisory positions, but when decisions must be made, unless ethics seeks to be irrelevant it should aim to provide practical guidance about how to proceed even when the most ethically justifiable way forward is ethically problematic.

**Ethics must take seriously the inevitability of
trade-offs**

Taking seriously the inevitability of trade-offs

- We are in a pandemic - some degree of harm will be unavoidable.
- It is insufficient to point to the harm that may arise with policy option *X* as a justification for adopting policy option *Y*; the mere presence of harm is not sufficient warrant to render a policy option unjustified.

Taking seriously the inevitability of trade-offs



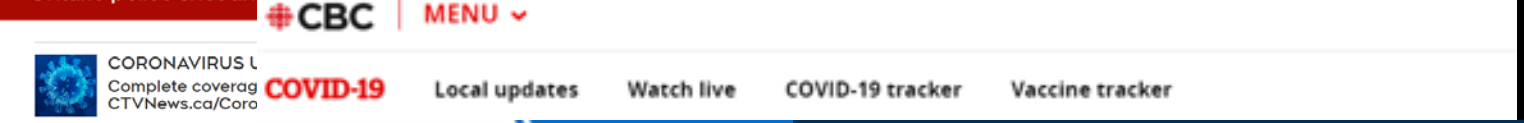
Taking seriously the inevitability of trade-offs



Taking seriously the inevitability of trade-offs



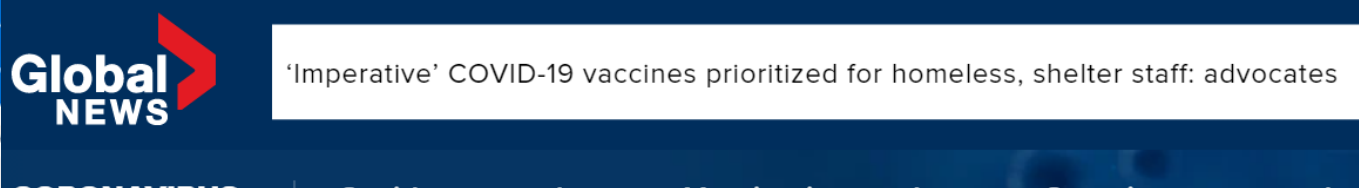
CTV NEWS
BREAKING
Ontario police shot and killed 1-year-old boy in standoff last year, watchdog confirms



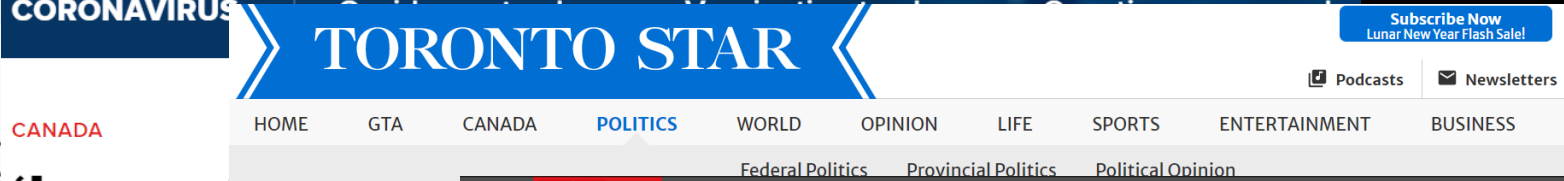
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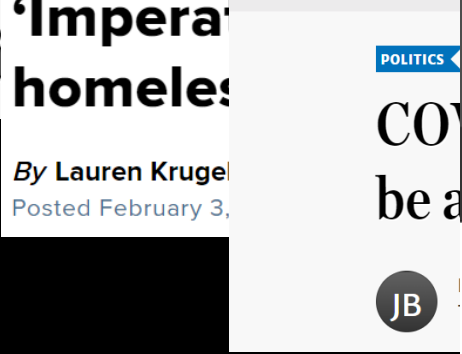
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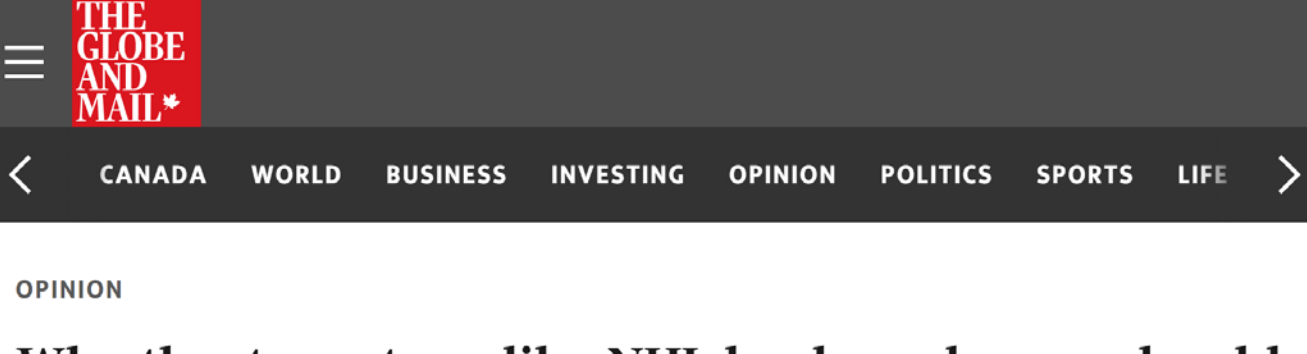
Global NEWS
'Imperative' COVID-19 vaccines prioritized for homeless, shelter staff: advocates



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By Lauren Krugel
Posted February 3,



OPINION
CANADA WORLD BUSINESS INVESTING OPINION POLITICS SPORTS LIFE

Why theatre actors, like NHL hockey players, should be a priority group for vaccination

Taking seriously the inevitability of trade-offs

Ethics should seek to prevent and mitigate harms, but where harms are unavoidable a key ethical responsibility exists to explicitly reason about where they would be 'best' located/distributed.

Ethicists cannot be the 'owners' of ethics

Ethicists as the 'owners' of ethics

- Everywhere you look, there are things that have been or could be construed as 'wrong' in the pandemic response.
- 'Wrong' is often used in the moral sense, and so it is attractive to seek out the ethics advisor(s) to the pandemic response to learn how and why those 'wrongs' were justified or allowed.

Ethicists as the 'owners' of ethics



· Jun 6, 2020



[@GibsonJennifer](#) [@maxwellsmith](#)

Can you tell me how you came to the conclusion that it is ethically ok to isolate Seniors in LTCH's from their Family for 83 days already? Did you support this decision?

Do you think the deterioration and deaths associated to isolation is ok?



Ethicists as the 'owners' of ethics

Bioethics

Inbox x

[REDACTED]@[REDACTED].ca via uwoca.onmicrosoft.com

Mon, Apr 5, 10:15 PM (7 days ago)

to maxwell.smith ▾

I'm struggling to comprehend the bioethics of deliberately impeding access to the COVID vaccine for 200,000 people.

<https://www.cbc.ca/news/canada/hamilton/hamilton-representatives-pharmacies-covid19-vaccine-1.5975741>

Ethicists as the 'owners' of ethics

- Ethical decision-making is a shared responsibility and does not (and should not) rest with the ethicist, ethics advisory body, etc.
- Ethics provides a key input to health system decisions, but ethical analysis is not itself the site of legitimate decision-making.
- Legitimate decision-making must account for many inputs, including clinical and epidemiological evidence, law, and broader stakeholder perspectives.

Ethicists as the 'owners' of ethics

- Ethicists possess expert knowledge + a skillset for ethical analysis and reasoning.
- Unlike scientific claims, which have a degree of legitimacy irrespective of what the 'lay' public might think, ethical claims generally do not; input from the public and key stakeholders is viewed as critical for the legitimacy of claims regarding what is 'right' and 'wrong'.
- But ethics and ethicists cannot and should not be solely responsible for public and stakeholder engagement – this is a requirement of legitimate decision-making more generally.

**What is right for the individual may not be
right for the public**

Right for the individual vs. right for the public

- Standards, norms, and analyses that commonly guide action in 'quotidian' bioethics may be inadequate in a public health emergency.
- Public health emergencies, like pandemics, raise questions about the types of individual sacrifices that can justifiably be made in order to protect and promote the population's health.

Right for the individual vs. right for the public



RESIDENTS' BILL OF RIGHTS

Residents' Bill of Rights

3 (1) Every licensee of a long-term care home shall ensure that the following rights of residents are fully respected and promoted:

1. Every resident has the right to be treated with courtesy and respect and in a way that fully recognizes the resident's individuality and respects the resident's dignity.
2. Every resident has the right to be protected from abuse.
3. Every resident has the right not to be neglected by the licensee or staff.
4. Every resident has the right to be properly sheltered, fed, clothed, groomed and cared for in a manner consistent with his or her needs.
5. Every resident has the right to live in a safe and clean environment.
6. Every resident has the right to exercise the rights of a citizen.
7. Every resident has the right to be told who is responsible for and who is providing the resident's direct care.
8. Every resident has the right to be afforded privacy in treatment and in caring for his or her personal needs.
9. Every resident has the right to have his or her participation in decision-making respected.
10. Every resident has the right to keep and display personal possessions, pictures and furnishings in his or her room subject to safety requirements and the rights of other residents.
11. Every resident has the right to,
 - i. participate fully in the development, implementation, review and revision of his or her plan of care,
 - ii. give or refuse consent to any treatment, care or services for which his or her consent is required by law and to be informed of the consequences of giving or refusing consent,
 - iii. participate fully in making any decision concerning any aspect of his or her care, including any decision concerning his or her admission, discharge or transfer to or from a long-term care home or a secure unit and to obtain an independent opinion with regard to any of those matters, and

Right for the individual vs. right for the public

Health Care Consent Act, 1996

S.O. 1996, CHAPTER 2
SCHEDULE A

Consolidation Period: From July 8, 2020 to the [e-Laws currency date](#).

Last amendment: 2020, c. 13, Sched. 3, s. 3.

Legislative History: [+]

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6.	Research, sterilization, transplants
7.	Restraint, confinement
	PART II
	TREATMENT
	GENERAL

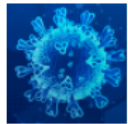
Right for the individual vs. right for the public

[← CTV News](#)



BREAKING

Active COVID-19 cases: 76,285 | Recovered: 967,969 | Deceased: 23,338 | Total: 1,066,727



CORONAVIRUS UPDATES

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[CTVNews.ca/Coronavirus](https://www.ctvnews.ca/coronavirus)

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Track the number of people in Canada who have
received doses

[CORONAVIRUS](#) | News

Second doses of COVID-19 vaccines can be given up to 4 months after first, NACI now says

[Rachel Aiello](#) Ottawa News Bureau Online Producer

[@rachaiello](#) | [Contact](#)

Published Wednesday, March 3, 2021 5:06PM EST

Last Updated Wednesday, March 3, 2021 6:42PM EST

Are we more utilitarian during pandemics?

Are we more utilitarian during pandemics?

- Utilitarianism: act in a manner which tends to produce the greatest good for the greatest number.
- Evidence suggests that social justice considerations are sometimes viewed as a 'constraint' on the aims of public health emergency response, which are to minimize overall morbidity and mortality.

Social Justice Research
<https://doi.org/10.1007/s11211-019-00327-7>



**Public Health as Social Justice? A Qualitative Study
of Public Health Policy-Makers' Perspectives**

Maxwell J. Smith¹ · Alison Thompson² · Ross E. G. Upshur³

Are we more utilitarian during pandemics?



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Ontario hospitals told to prioritize ‘speed over precision’ in COVID-19 vaccine rollout, executive says

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