



CASE STUDY

ETHICAL PREPAREDNESS FOR HEALTH POLICYMAKING AND IMPLEMENTATION DURING PUBLIC HEALTH EMERGENCIES: THE ROLE OF RAPID ETHICAL ASSESSMENT

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Scholars have called for ethical preparedness for public health practice and research to address the challenges of special ethical considerations under time and resource pressure during emergencies like the COVID-19 pandemic. We propose the idea of a rapid ethical assessment (REA) that aims to provide ethical justifications and policy recommendations for a specific public health policy, which is necessary for the ethical legitimacy of health policymaking and implementation. We suggest that an REA task force be established and incorporated into the administrative procedure to perform an REA in the early, middle, and terminal stages of a policy proposed by the health authority and to determine to what extent the tradeoffs between values and priorities required by the policy are ethically acceptable. The REA task force's role is consultative, with the final decisionmaking power and political responsibilities falling on the health authority. The REA task force should adopt 4 substantial ethical principles: utilitarianism, equity, human rights, and solidarity. The REA task force would consist of a multidisciplinary team of experts and a group of representatives from those who would be affected by the proposed policy. The REA task force would operate with a 5-step procedure of (1) convening, (2) investigation, (3) determination, (4) reporting and communication, and (5) decision and reassessment. We use 2 real incidents in Taiwan to demonstrate how the REA task force could work to enhance the ethical acceptance of a policy.

Keywords: Public health preparedness/response, Pandemic preparedness, Rapid assessment, Public health ethics, Human rights

INTRODUCTION

DURING THE COVID-19 pandemic, many health authorities have been charged with judicial challenges due to the swift and rigid policies in place to manage cor-

onavirus transmission. These policies are often developed and implemented by the government under a very intense timeframe to mitigate the health impacts of the pandemic. As such, these policies may deviate from standard administrative and legislative procedures. In many cases, the

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policies lack adequate legal and ethical considerations and are challenged by those who are unsatisfied with the policies and believe the government has illegally infringed on their liberties or rights. In addition to these challenges in public health practice, public health research during the pandemic has been subject to similar issues. Many studies were in the gray area of research ethics, trading rapid generation of knowledge—that could be put into measures against COVID-19—for the typical ethical review processes and standards. These discrepancies in compliance with standard procedures reflect the need for proper ethical and legal preparedness for public health emergencies in the health sector of many national and local governments.

Ensuring a rapid response to maximize public health outcomes in public health emergencies, however, does not imply that we should lower our ethical standards or neglect ethics. Lowering or neglecting ethical standards to gain short-term efficiency and results would, in the long term, undermine the public's trust in public health authorities and lead to less cooperation in disease prevention policies. Temporary success could come at the cost of the overall effectiveness of long-term public health policies. Therefore, in hardship scenarios like the COVID-19 pandemic, we still need ethical grounds for health policymaking and rapid assessments throughout the policymaking process.

Scholars have called for recognizing the importance and function of ethical preparedness in public health.¹⁻³ It is crucial for health policymakers and the public to make clear what equity, fairness, and solidarity really mean when we state that we want to pursue these ideals through the health systems and the implementation of public health policies.² The Nuffield Council of Bioethics has offered a brief summarizing the major concepts and issues to be considered by policymakers.⁴ Many organizations and scholars have also proposed useful tools and frameworks for public health interventions under different situations.⁵⁻⁹ In terms of research, scholars have analyzed the special considerations for public health research during emergencies,¹⁰⁻¹⁵ and the World Health Organization (WHO) has developed guidance and standards documents on this matter.^{16,17}

The challenge now has moved to health policymaking and implementation. How should the existing administrative establishment use the knowledge, consider the ethical dimensions of health policy, and embed the ethical reasoning component into the administrative process, especially when resources and time are scarce in public health emergencies? As Emanuel et al have advocated, we need not only evidence-informed but also ethics-informed policymaking.² Anderson et al address the role of ethical reasoning parallel to the policy process.³ This article echoes their idea and aims to provide a practical and realistic institutional design for the administrative body to be equipped with adequate ethics capacity for health policymaking and implementation.

In this article, we propose the idea of rapid ethical assessment, with inspiration from ideas such as rapid response, risk assessment, and rapid assessment. To integrate these

ideas and tailor them for ethical preparedness and the cultivation of ethics capacity, we suggest incorporating a rapid ethical assessment (REA) task force to oversee the development and implementation of health policies during public health emergencies. The REA task force should function as a checkpoint for the ethical acceptance of any emergent policies and measures in response to public health emergencies that would not otherwise be implemented in ordinary times. We argue that the REA task force is necessary for the ethical legitimacy of health policymaking and the state's obligations to respect, protect, and fulfill the human right to health and other aspects. We use a COVID-19-related incident in Taiwan to demonstrate how the REA task force could help prevent unnecessary public distrust toward health authorities and enhance the effectiveness of health policies.

Ethical preparedness is crucial for future public health emergencies, and establishing an REA task force in the health administrative body provides an opportunity to institutionalize ethical preparedness within the government. The REA task force ensures the workforce necessary for the ethical assessment task and provides the communications required for public justification and collection of voices and opinions from those affected by policies. It also provides organizational administrative preparedness, including the administrative support of budgeting, logistics, general affairs, auditing, and personnel.

RAPID ETHICAL ASSESSMENT CONCEPT

A *rapid ethical assessment* aims to provide ethical justifications and policy recommendations for a specific public health problem or policy before, during, and after the policy is implemented in a public health emergency. The idea of the REA is inspired by 3 main concepts: (1) rapid response^{18,19} in the nature of its timeliness of such a response to emergencies; (2) risk assessment in its “systematic process for gathering, assessing and documenting information”²⁰ for a specific policy or action purpose; and (3) rapid assessment from disaster and war management for early data collection and information provision for decisionmaking.²¹ We integrated these ideas and tailored them for ethical preparedness and cultivating ethics capacity.

Ethical assessment refers to a comprehensive evaluation of a policy proposed to be implemented by the government health authority regarding the policy's ethical dimensions in terms of the degree of coercion, infringement of individual liberties, limit of personal will and preferences, protection of human rights, and just and fair allocation of scarce public resources. *Rapid* refers to the requirements of public health emergencies, in which time is always a critical factor for government to take action. In general, the faster, the better. Hence, an REA would need to be conducted in a limited timeframe, despite its comprehensiveness in all ethical dimensions.

Under these circumstances, the results we should expect from an REA might be a partial estimation of impacts on

each ethical dimension with detailed, complete, and representative data. However, an REA would leverage the limited data that is best available to the health authority in the early stage of a crisis or emergency. Theoretical, conceptual, and legal tools should be ready to analyze the limited data. The results of an REA would be a set of concise, reasonable, and plausible policy recommendations for a specific public health problem or policy, with each alternative's advantages and disadvantages. Note that for simplicity, the scope of the REA is limited to health-related policies and issues during public health emergencies. Therefore, while other matters regarding public health emergencies—such as public relief programs for those who lost their jobs or businesses—may also benefit from the REA process, they are not included in our analysis.

REA TASK FORCE ROLE

An REA task force should be established as an independent body within the organization that has public health authority, such as a ministry of health at the national government level or a department of health at the local level. The task force's mission is to perform an REA in the early, middle, and terminal stages of a public health policy that the health authority is planning to implement to address a specific public health problem during emergencies. Such emergency policies require an REA because they aim to address unusual situations during emergencies. They would not be implemented in ordinary times under normal legislative and administrative processes. For the sake of time and effective response, policies for an emergency tend to focus more on effectiveness and expected consequences than protection of liberties and rights. The role of the REA task force is to assess to what extent, under a specific situation, these tradeoffs are ethically acceptable.

With this mission, the REA task force needs to collect information regarding the status of public health emergencies and the alternatives considered by health policymakers or administrators. Based on data collected, the task force would calculate the cost-effectiveness, advantages and disadvantages, necessity, and degree of restriction for each option. It would then generate an assessment report that should be transparent and understandable for laypersons. The members of the REA task force would communicate their findings and justify their policy recommendations under different conditions for different ethical purposes. They may recommend a specific policy if needed.

Relationship Between the REA Task Force and Government

The role of the REA task force would be consultative, with the health authority having the ultimate power to make policy decisions and maintain administrative and political responsibilities. The concept of “ethics-informed” policymaking is that the government's role is to make and im-

plement policies and the REA task force has the duty to fully inform the government. In addition, the public is also involved in the justification process.

The government may or may not seriously consider the REA task force's assessment report, but the public (and potential voters in the coming election) will be watching how the government considers the policy recommendations and justifications proposed by the REA task force. The government is ultimately held accountable under the general democratic establishment.

Ethical Principles of the REA Task Force's Work

Rather than treating REA as a procedural requirement, we maintain that the REA task force should adopt 4 substantial ethical principles to address public health emergencies. First, a utilitarian account of maximizing total health outcomes should be the assessment's top priority. In a scenario where the REA finds that a proposed policy could not reasonably lead to effective disease prevention or health promotion in the initial assessment, performing the rest of the evaluation would be meaningless. If there are multiple alternatives to be considered, and some are obviously more effective than others, the alternatives should be further analyzed from a cost-effectiveness perspective.

Second, equity requires that the burdens and benefits of the policy should be allocated with *fairness* and *justice*; however, the meaning of these terms is subject to the context of the situation, in which the structural and relational vulnerability and resilience of groups of people should be considered. The point is concerned with the equitable distribution of resources. These 2 ethical principles are also generally recognized in public health ethics²² and are embedded in most of the frameworks.⁶⁻⁸

Third, human rights principles are an independent area of legal practice. Well-established international human rights law has much to demand. The REA task force must ensure that the first and second principles do not violate any human rights obligations that are not derogable and that they do not undermine existing protections without reasonable justifications. In addition to such principles of nonretrogression and safeguarding the minimum standards of protection, no policy shall be discriminatory. The REA task force would serve to provide adequate information for the government to satisfy the state's burden of proof when some retrogressive measures or certain distinctions between social groups are necessary.^{23,24}

Last is the principle of solidarity. By solidarity, we refer to the commitment among a group of people to carry the cost of taking joint actions for mutual assistance.²⁵ This is an essential ethical principle, yet often taken for granted. In the case of the COVID-19 pandemic, for example, people recognize the relevant respect in preventing health, social, and economic loss as much as possible and ending the pandemic as soon as possible. Solidarity is the overarching principle that

justifies a balance between the pursuit of total health outcomes and caring about equity and human rights protection.

REA Task Force Workforce Composition

The REA task force would have 2 types of representatives on the board. One is a multidisciplinary team of experts, similar to teams on other types of rapid assessments.^{20,21} There would be much information and many policy alternatives to be considered by the REA task force. This competent multidisciplinary team should include at least 1 ethicist to perform the overall ethical assessment, 1 attorney to provide legal consultation and determine proper human rights indicators to consider, 1 economist to perform the cost-effectiveness analysis, and 1 specialist who is knowledgeable about the proposed public health problem or policy—such as an infectious disease epidemiologist, an environmental scientist, or a pediatrician—and 1 practicing clinician or civil servant who would be at the frontline of policy implementation. These 5 or more experts (professional participants) would likely maintain separate full-time employment while serving on the REA task force when it is established. However, the health authority should prepare a list of the experts and regularly perform exercises and scenario simulations to familiarize the experts and administration on how a rapid ethical assessment works during public health emergencies.

The second type of representative should be from the public, representing those who would be directly or most affected by the policy and/or who may be vulnerable to the change of reality due to the policy.²⁶ The citizen representative role is twofold. First, they represent the opinions, voices, and local/lay knowledge relevant to the policy and beyond the experts' perspectives. Second, they are essential in determining the relevance of the proposed policy in addressing a public health issue from the perspective of civil society and stakeholders, based on the ethical principle of solidarity. Leaders of civil society organizations, labor unions, trade associations, other professional associations, and concerned individuals are all potential candidates for citizen representatives. The entire team should not have too many members for the sake of the efficiency of the task force's deliberation. We recommend that the number of citizen representatives should equal the number of professional and expert participants. A lottery system could be used to determine who to recruit from those who expressed willingness, or from a sampling framework of a defined population, applying a procedure similar to a jury selection.

In addition, institutional capacity is required for the health authority to function as the secretariat of the REA task force. Institutional capacity includes the administrative support of budgeting, logistics, general affairs, auditing, and personnel. The health authority should ensure that administrative staff, such as civil servants, have the required capacity to carry out duties in the secretariat during non-

crisis times and should be prepared to convene the REA task force when a public health emergency occurs.

RAPID ETHICAL ASSESSMENT PROCEDURE

Although the role of the REA task force is to provide an independent assessment for consultative purposes, its work is still a part of the administrative procedure. Here we use Taiwan as an example of an administrative structure of a state with a continental law judicial system background to demonstrate the steps of a typical REA performed by the REA task force:

1. Convening: When the health authority (eg, Ministry of Health and Welfare) declares a public health emergency, by its own discretion or abiding by WHO's announcement, it would typically establish a mission-based emergency governing unit, such as the Central Epidemics Command Center (CECC) in Taiwan.²⁷ The REA task force should be convened along with establishing an emergency governing unit. Whenever the health authority or the emergency governing unit intends to implement a public health policy, which is presumed to be ethically relevant, the policy proposal should be referred to the REA task force, and the REA process should be triggered. Namely, the need for an ethical assessment is without question because policy responses to an emergency tend to involve limitations on people's exercise of autonomy, liberties, privacy, and other rights. Therefore, exceptions to conducting an REA may include the ease of restrictions, maintenance of the status quo, or situations in which the health authority has obvious reasons and evidence to prove otherwise.

2. Investigation: The REA task force would collect and review available data and use verified assessment tools and ethical frameworks to compare the proposed policy with other possible alternatives and deliberate about the ethical impacts.

3. Determination: The REA task force would determine whether the proposed policy is ethically acceptable, needs some revisions to be acceptable, or is not acceptable at all, and would make recommendations accordingly.

4. Reporting and communication: The REA task force would generate an assessment report and present it to the health authority and the general public. The assessment report should disclose the identity of the REA task force members, the rationale of ethical reasonings, and the evidence used to justify the policy recommendations. The task force members would communicate their findings and explain their policy recommendations. The public should have an opportunity to respond to the report.

5. Decision and reassessment: The health authority would consult the assessment report and the public's responses and decide whether to implement, revise, or abandon the proposed policy. After the decision has been made, in accordance with the evolving emergency situation, new policies with potential ethical impacts may be proposed. The

Table 1. The 5 Steps of Rapid Ethical Assessment in the 2022 Local Elections in Taiwan

<i>Steps</i>	<i>Hypothetical Scenarios</i>
1. Convening	One month before the elections, the CEC, along with the CECC, estimates that special treatments for the confirmed cases may be required to prevent the transmission of COVID-19. As people's political rights may be limited, the REA task force starts to review the policy proposed by the CECC/CEC.
2. Investigation	The REA task force reviews facts and information. The task force may consider, for example, article 25 of the International Covenant on Civil and Political Rights ³³ and the UN Human Rights Committee's General Comment No. 25 on the right to participate in public affairs, voting rights, and the right of equal access to public service to assess the situation. ³⁴ According to General Comment No. 25, the principle of nondiscrimination is strictly applied, no conventional exception is allowed, and any restriction on the right to vote must be established by law (not administrative orders) and reasonable.
3. Determination	The REA rejects the CECC/CEC's proposal to require the confirmed cases to stay home on election day. The REA recommends the design of a COVID-19 tunnel at each voting site to prevent transmission during voting.
4. Reporting and communication	The REA task force generates the assessment report and presents it to the CECC, CEC, and the general public. The task force members explain their recommendations.
5. Decision and reassessment	The CECC and CEC consider the assessment report and change the treatments for the confirmed cases during the election accordingly. There is no need to reassess the policy because the revision is made toward fewer limitations on people's rights.

Abbreviations: CEC, Central Election Commission; CECC, Central Epidemics Command Center; REA, rapid ethical assessment.

procedure begins again at Step 1 in the event of a significantly different situation of the emergency.

The REA procedure is meant to be as comprehensive and inclusive as much as possible. In the following section, we describe 2 COVID-19-related incidents in Taiwan as examples to demonstrate how the REA task force could enhance the ethical acceptance of a policy during a public health emergency.

Indiscriminate Declaration of a Level-3 Pandemic Alert in 2021

By February 24, 2022, the CECC used an alert-level system to represent the severity of the epidemic situation. On May 15, 2021, a level-3 alert (second highest level) was announced in Taipei and applied to all parts of Taiwan a few days later, ending on July 27, 2021. The level-3 alert came with general restrictions on people's movement, including closures of long-term care facilities, schools, suspension of home visits of domestic violence survivors, and so on. New regulations negatively impacted people's psychosocial health, women's access to reproductive health services, professional care workers' (predominantly women) income, and distribution of unpaid care labor at home.²⁸ Stricter enforcement of "work-from-home" policies resulted in the interruption of volunteer services (eg, lifelines and all sorts of hotlines), which were not classified as "essential work." When most telemedicine and telecare services were deregulated, psychological counseling was initially ruled out until the government had to respond to mental health needs advocated by many nongovernmental organizations (particularly the Taiwan Counseling Psychologist Union).²⁹

If an REA task force had existed at that time, the potential impact of the level-3 alert and associated policy

measures would have been assessed before it was declared. The task force would have convened before the announcement about new rules concerning access to public spaces, workplace arrangement, and health services delivery. In its review of the CECC's proposal—even if already authorized by the 2020 Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens³⁰—the task force would have foreseen the unequally distributed impact on the right to health and gender equality. It could have requested that the government design its measures with more nuance and in light of the principles of equity and human rights obligations upon the state. A report would be published to communicate the REA results to the government and civil society, encouraging a more inclusive process for public concerns to be considered and more careful policy considerations accounting for various social groups and types of public spaces and services—despite the announcement of the Level 3 alert.

Limitation on the Right to Vote During the 2022 Local Elections

Regarding the elections of local officials and representatives on November 26, 2022, Taiwan's Central Election Commission (CEC) announced that all confirmed cases of COVID-19 infection should stay home for 5 days for disease prevention purposes, following the CECC guidelines at that time. The number of newly confirmed cases on that day was 13,269.³¹ The numbers were roughly similar within the preceding 5 days, implying that around 65,000 persons had their right to vote limited. Whether the number of votes is influential on the election results or not, this policy still qualifies as a significant infringement on the people's political rights. Taiwan Association for Human Rights, a civil society organization, filed the case to the

administrative court.³² However, the court's proceeding was unable to provide a timely response to the upcoming election; no alternative could be ordered and no redress granted before the election day.

If an REA task force were embedded in the administrative procedure, would the results be any different? In the Table, we sketch the hypothetical scenarios should the REA task force have functioned with regard to the 2022 local elections. The task force would have convened sometime before the election. After reviewing the CEC/CECC's proposal to require the confirmed COVID-19 cases to stay at home on election day, the task force would find it violating people's political rights and the principle of nondiscrimination as regulated by the related human rights conventions such as the International Covenant on Civil and Political Rights and its related General Comments.³³ The task force would then reject the CEC/CECC's proposal and recommend some special treatments (eg, implementing COVID-19 channels for the patients in the voting stations) in place to meet the protection of political rights and the needs of disease prevention. The task force would then publish their report and communicate with the CEC/CECC and the general public. With the recommendation of the REA task force, the CEC and the CECC may eventually decide to revise the stay-at-home policy for the confirmed cases of COVID-19 infection. The scenario in the Table demonstrates how the REA task force could work. Even if the CEC/CECC decided to disregard the task force's recommendation, it would be required to justify its decision publicly, improving the overall transparency regarding their decisionmaking rationales.

Pitfalls and Limitations of a Rapid Ethical Assessment

The REA may bring extra challenges regarding overall disease prevention efforts. First, no matter how rapid the REA process is designed to be, it may delay timely the development and implementation of policies vital to preventing the transmission of diseases or mitigating the impact of a public health crisis. This potential delay, however, is seemingly unavoidable. However, we maintain that the REA could identify the potential ethical issues of the policy and hence prevent people's distrust in the government and unwillingness to cooperate with the health authority in the long run. If the existence of a public health emergency is evident and the policy options are clear yet limited and involve few ethical concerns, the REA process would be relatively more straightforward and the policy measures to be taken would still be timely.

Second, as the REA process would create an extra node and several chains of communication between the general public and the health authority, it may create a higher probability of misinformation and disinformation, which

are important factors associated with or causally influencing the effectiveness of disease prevention efforts, people's health behaviors, and health outcomes.³⁵⁻³⁷ While for decades it was believed that more transparent, deliberative, and responsive policymaking would lead to higher public trust and better policy outcomes, in an era when polarized politics and populist sentiments have risen, the proposition seems no longer self-evident. The REA is also subject to this limitation. Consider the scenario in which the health authority disagrees with or disregards the REA task force's report, which is rather recommendatory than mandatory in our proposal, and decides to proceed. The health authority and the government's ruling party may then be severely criticized by the opposition parties and their supporters, potentially causing a strong sense of distrust and even more rumors and conspiracy theories than the scenario in which the REA is not in place.

Third, the REA may require additional administrative inputs, including budgets and human resources. The convening of the REA task force may crowd out the available resources that are already scarce during a public health emergency. This is also a major concern for health research during emergencies.³⁸ However, unlike research, we deem REA an ethically preferable and administratively necessary process. As we have proposed, the REA requires a minimum of a 10-person committee (5 professional and 5 public participants). In light of our design, we consider that a larger problem concerning the overall underfunded, underinvested, and understaffed public health system has already existed if a government finds establishing the task force financially and logistically unaffordable.

CONCLUSION

As public health professionals and practitioners, we have the moral imperative to promote health and reduce health inequity.²² To make a public health measure ethically acceptable is also implied in human rights law, as an extension of the "acceptability" element of the right to health. We need to take ethics into consideration to effectively and ethically achieve these goals.³⁹ We need to align the public preference with our goals; although this may sound paternalistic, all health interventions are so.⁴⁰ This is the purpose of policy communication, and ethics is an integral part of it. Scholars have rightly said that "policymakers have a responsibility to embrace ethical reasoning in the process and justification of policies to advance better health outcomes."³ Facing ongoing and highly uncertain health threats, health authorities should be prepared to include ethics, maintain trust, and pursue effective health policies. The idea of REA and the establishment of the REA task force aims to fulfill this responsibility during public health emergencies. Public health preparedness includes ethical preparedness.

Although we originally designed the REA task force and envisioned the 5-step operation at the level of the national

government, this set of institutional arrangements for ethical preparedness could also be applied to other levels of health governing bodies, such as municipal or county-level governments, healthcare organizations, and hospitals, which might also encounter ethical challenges during public health emergencies. Future work is needed to continue in this line of studies.

REA is necessary for the ethical legitimacy of health policymaking, implementation, and the state's commitment to its human rights obligations. By incorporating REA into the existing administrative procedure, along with the overarching principle of solidarity, people of democracies could benefit from the REA and the overall ethical preparedness, handle emergency health threats while also protecting individual liberties and human rights, prevent arbitrary state use of power, respect autonomy, and pursue fair and just resource allocation at the same time.

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