

Predictive Risk Modelling and Child Maltreatment: An Ethical Review

Referee's Report

Professor David Archard (Queen's University Belfast) June 2013

[1] The thoroughness and comprehensiveness of the ethical review that has been conducted is to be commended. There are no obvious omissions or failures to take proper account of a relevant ethical consideration.

The review is careful, judicious and fair-minded in its treatment of all the ethical concerns. Overall the review comes down in favour of the main report's recommendation of the future use of administrative data to identify children at possible risk of maltreatment. This conclusion is warranted on the grounds the ethical review limits itself to considering, namely that there are no significant, substantive moral costs in implementing the proposed programme of action.

The review is written in an admirably clear and concise manner such that it retains philosophical rigour whilst being accessible to a lay audience.

[2] The review accepts the main report's characterization of the proposed model's predictive accuracy. The review also accepts the general effectiveness of early intervention in the life of a child identified as at risk of maltreatment in preventing or reducing subsequent abuse. The making of both assumptions seems to be entirely proper. Of course the balance of costs and gains from the use of the proposed model rests upon the

assumption of predicted accuracy and the efficacy of early intervention. If the model were not to be as accurate or early intervention not to work as claimed then those moral costs identified from the model's use might have greater significance. However, given that these costs overall and on balance are not thought of as weighty the making of these assumptions is innocuous.

[3] It needs to be acknowledged that the proposal is entirely novel and as yet untested anywhere else. This of course means that there is no comparative material available that might inform evaluation; nor is it possible to predict what might be the unforeseen consequences of its implementation. However, it is hard on the basis of this comprehensive and thorough review to think what might result and be such as to entail significant moral costs.

In what follows I offer a number of critical comments which, even taken together, do not amount to a reason to discount the review's recommendations nor to withdraw the overall favourable judgment made above in [1]. Rather they are provided in the spirit of constructive engagement with the issues, and in the hope that any subsequent public debate of the crucial matters engaged by this report is enriched.

[4] The emphasis throughout the review is on a careful balancing of the costs and gains of the proposal. This approach suggests a certain moral theoretical commitment. This review appears to be broadly consequentialist and to engage in evaluation by means of a comparative weighing of gains and burdens. Indeed this is explicitly acknowledged on p. 53. Such an approach is, on the whole, unsympathetic to the construal of rights as trumps or absolute side-constraints on the permissibility of certain courses of action. Thus, on p. 55, it is stated clearly that rights 'compete in the moral balance of reasons with a range of other

competing interests and perspectives'. This may not persuade some moral theorists, those, for instance, with strong deontological commitments. However, in fairness to the review's authors the following should be said.

First, and generally, it is inevitable that any moral review should make or rest upon some ethical and meta-ethical commitments. Those made here are not so controversial as to jeopardise the fairness of the overall evaluation. Second, and more particularly, even someone who did subscribe to the strong view that rights must figure as trumps or absolute side-constraints would be hard pressed to nominate a right of this kind that might plausibly figure in the evaluation of this proposal and to its fatal moral detriment.

[5] It is important clearly to separate any moral evaluation of the wrongness of child abuse or neglect from a cost-benefit analysis – as in the business plan – which sets the gains of preventing abuse (construed as the saved costs of treating the victims of abuse) against the costs of detection. Financial costs and gains are of course relevant to any overall moral evaluation. But it would be a mistake to identify an evaluation of some thing's moral wrongness with an estimation of its economic costliness.

[6] The review recommends the exercise of some degree of discretion in the implementation of the predictive model by front line child protection professionals. Of course the value of such an exercise crucially depends upon the confidence of those professionals in the overall efficacy of the model. Thus the assumptions considered above in [2] are relevant. Inasmuch as the making of these assumptions is warranted the commendation of professional discretion is also justified.

[7] The use made of arguments famously made by John Stuart Mill in respect of the proper limits to the exercise of individual liberty is to a degree merited. However, it is important to

acknowledge some material differences between the subjects of Mill's comments and that of the review.

First, Mill is considering what justifies the use of coercive state and societal powers to limit the liberty of individuals. The moral cost of such coercion is the loss of freedom. By contrast, the report commends a proposal that would involve the voluntary engagement of identified at risk families with professionals. The proposal has some putative moral costs. But these are not a loss of liberty.

Second, although Mill is not as clear as he might be, it is plausible to think that he intends to criminalise acts and omissions that both directly and indirectly harm others. By the latter is meant those acts and omissions that are preparations for subsequent harms (for example, constructing a bomb at home) or have a known probability of occasioning harm (exceeding the speed limit). By contrast the report proposes identifying agents (the guardians of children) who may never cause harm and who are at risk of harming others only in the sense that within the cohort to which they belong a known but as yet unidentified number will go on to harm.

In short, there is a distinction between stopping individuals from doing what will very probably or certainly lead to harm and identifying individuals who might but cannot as individuals be predicted to harm others in order to engage in consented cooperative work to prevent the possible harm.

[8] The review rightly argues that the costs of stigmatising those identified as at risk parents may be reduced through a fair and accurate public reporting of the predictive model and its implementation. Of course it is not possible within a liberal jurisdiction that honours the

principle of a free press to regulate the manner in which the media might choose to describe the proposal. It would probably be as well to acknowledge that, whatever ones hopes for unbiased and sober reporting, newspapers and other media will construct the stories that appeal to their respective publics. Given the potentially sensational nature of what is at stake – namely the abuse of children - such hopes may be further dented.

[9] It is important to be clear whether there are opportunity costs if the targeted provision (working with families identified as being at risk) is at the expense of general or universal provision. This is of course dependent on whether the government devotes resources to such targeted provision over and above those already committed to the general care of children, or redistributes existing resources. The comments made on p. 41 are a little ambiguous, suggesting both that targeted provision would be additional and that it would be paid for by savings that *might* be made by effective treatment of high risk cases. The characterisation of such savings as possible makes a difference here.

[10] The evaluation of the value of confidentiality by considering the plausibly justified trade-off between confidentiality and the public good in emergency cases might seem a little forced. Presumably such gains as might be made by breaching confidentiality are those of child health and not the avoidance of an emergency.

[11] I strongly commend this review without any significant reservations.

Professor David Archard, School of Politics, International Studies and Philosophy, Queen's University, University Road, Belfast BT7 1NN, Northern Ireland; d.archard@qub.ac.uk.