

Ethics in Forensic Psychiatry: Balancing Care Delivery, Justice, and Professional Integrity

1.0 Introduction

Forensic psychiatry operates at the delicate intersection of mental health care and the criminal justice system. This unique position often places psychiatrists in challenging ethical dilemmas (1) where they must balance the needs of patient care with the demands of public safety (2). Traditional ethical frameworks—such as deontology, utilitarianism, and virtue ethics—have long provided a foundation for moral decision-making. However, in the context of forensic psychiatry, they fall short in addressing the specific complexities of the field, particularly the tension between patient autonomy and legal obligations (3). These frameworks can struggle to accommodate the nuances of dual responsibility, where psychiatrists must care for the individual while considering societal risks.

In response to these limitations, contemporary ethical models offer more adaptable and comprehensive approaches. Sen's Capability Approach focuses on expanding individual freedoms and capabilities, emphasising rehabilitation and autonomy (4). On the other hand, Young's Structural Injustice Theory addresses systemic inequalities, advocating for reforms that target the institutional biases that disproportionately affect marginalised groups (5). Together, these frameworks offer a more nuanced way to navigate the complex ethical challenges of forensic psychiatry.

This essay argues that integrating Sen's Capability Approach and Young's Structural Injustice Theory provides a robust ethical foundation for forensic psychiatry. These models complement traditional ethics by addressing both individual rights and

systemic inequities. By examining their practical application in the UK's legal and healthcare systems—particularly in light of recent policy reforms—this essay will propose a path forward for balancing care delivery, justice, and professional integrity in forensic psychiatry.

2.0 The Role of a Forensic Psychiatrist

In exploring an appropriate moral framework for forensic psychiatry, it is essential to clarify the complex and often contested role of a forensic psychiatrist (6). Historically, practitioners—once termed "alienists"—were tasked with evaluating individuals considered socially "alien" within the legal sphere (7). Although the discipline of forensic psychiatry was formalised as early as the 1800s, skepticism surrounding the profession's integrity has persisted (8). This scepticism largely stems from the dual roles forensic psychiatrists inhabit: therapeutic care providers on one hand and objective legal evaluators on the other (9).

Alan Stone, former President of the American Psychiatric Association, famously criticised this duality, describing forensic psychiatry as "prostituting itself into moral compromise" (10). He argued that forensic psychiatrists are inevitably torn between their obligations to act in the patient's best interest and their duty to assist legal processes (10), which often prioritise societal safety over individual care (1). This ethical tension is exacerbated by the forensic psychiatrist's role in providing evaluations that can significantly affect legal outcomes, such as determinations of criminal responsibility or fitness for trial (11).

Another major ethical dilemma involves confidentiality. In forensic contexts, the doctor-patient relationship is frequently triadic, involving the legal system as a third party. This dynamic often requires forensic psychiatrists to prioritise transparency and societal interests over the patient's right to confidentiality (12), which can erode foundational ethical principles such as non-maleficence (13). Honest disclosure in this context risks compromising the patient's legal standing or self-incrimination (1), further complicating the forensic psychiatrist's ethical responsibilities (14).

Beyond the courtroom, forensic psychiatrists are also responsible for assessing and managing the risk of violence and reoffending. They conduct detailed risk assessments, often using tools such as the HCR-20 or Static-99, to inform legal decisions about sentencing, parole, and treatment (15). This aspect of the role requires not only clinical expertise but also an ability to predict future behaviour based on past conduct, presenting further ethical challenges in ensuring fairness and preventing bias (16). Such predictions, though informed by clinical tools, are not foolproof, and the consequences of error can be profound—either unjust confinement or the release of a potentially dangerous individual (17).

Forensic psychiatrists also play a critical role in providing expert testimony in court, where they translate complex psychiatric diagnoses and behavioural patterns into language accessible to the judiciary (18). The impartiality of this testimony is critical, as it can influence key legal decisions, such as the insanity defence or the appropriate sentencing for individuals with mental health disorders. The challenge lies in maintaining professional objectivity while being scrutinised in an adversarial system that may pressure psychiatrists to align with one party's interests (19).

Finally, forensic psychiatrists are also involved in advising on mental health legislation and policy development. Their unique insight into the intersection of law and psychiatry means that they often contribute to shaping policies related to the care and treatment of mentally ill offenders (20). This broader societal role further complicates their ethical responsibilities, as they must consider the implications of policy changes on both individual rights and public safety.

This ongoing dual mandate—providing care while also fulfilling legal obligations—creates a persistent ethical conundrum. Without a cohesive ethical framework, forensic psychiatrists will continue to face scepticism regarding their professional integrity. Addressing these challenges requires a thorough examination of the traditional ethical theories that have long guided medical professionals.

3.0 Critique of Classical Ethical Frameworks: Deontology, Utilitarianism, Virtue Ethics

In forensic psychiatry, where practitioners must navigate the competing demands of patient care and legal obligations, classical ethical theories—deontology, utilitarianism, and virtue ethics—have provided foundational guidance. However, the unique challenges in this field often reveal significant limitations within these frameworks. Deontology, with its rigid focus on duty, struggles with the flexibility required in situations where obligations to patients and societal safety conflict (14). Similarly, utilitarianism, which prioritises the greatest good, can justify coercive measures that compromise individual rights, particularly among marginalised

populations. Virtue ethics, while promoting moral integrity, often lacks prescriptive clarity in legal settings where impartiality is crucial.

In the following sections, these classical ethical models will be critiqued, focusing on their relevance and shortcomings in addressing the complex ethical dilemmas that arise in forensic psychiatry.

3.1 Deontology

Deontological ethics, grounded in Kantian principles, emphasises moral duties and the adherence to absolute ethical rules (14). In forensic psychiatry, this rigid focus on duty can become problematic, particularly when conflicting obligations arise. For example, the duty to maintain confidentiality may conflict with legal requirements to disclose information for the sake of public safety (21). In such cases, deontological ethics lacks the flexibility required to navigate these nuanced dilemmas, offering little guidance when duties come into direct conflict.

3.2 Utilitarianism

Utilitarianism, with its emphasis on achieving the greatest good for the greatest number, supports decisions that prioritise societal well-being over individual rights (22). While this approach often aligns with the public safety obligations of forensic psychiatrists, it can inadvertently justify restrictive measures that compromise patient autonomy and well-being. Research shows that marginalised groups—such as racial minorities—are disproportionately affected by coercive treatments, such as

confinement and forced medication, which are justified by utilitarian principles (23). This focus on outcomes, while addressing public safety, can exacerbate existing inequalities and ethical imbalances, particularly in vulnerable populations (1). Although utilitarianism aims to maximise welfare, it often neglects the fairness and equity needed in the treatment of forensic psychiatric patients, especially those from marginalised groups.

3.3 Virtue ethics

Virtue ethics, by focusing on the moral character of the practitioner, encourages qualities like empathy, integrity, and compassion in therapeutic relationships (24). While such virtues are valuable in general psychiatry, virtue ethics provides less clear guidance when navigating adversarial legal environments, where objective evaluations are required. In forensic psychiatry, the need to remain impartial and objective in court proceedings can challenge virtues like empathy, which may conflict with legal responsibilities. Virtue ethics may promote admirable traits in individual practice, but it lacks the prescriptive clarity needed to resolve specific legal and ethical conflicts that arise in this highly regulated field (25).

3.4 Classical Ethics Summary

Overall, these classical frameworks offer important ethical foundations but fall short in addressing the systemic and institutional challenges inherent in forensic psychiatry. As the field requires practitioners to balance individual patient care with broader

societal responsibilities, the rigidness of classical ethics often leaves forensic psychiatrists ill-equipped to navigate the intricacies of their dual roles.

The limitations of these traditional frameworks point to the need for more adaptable ethical approaches, which can accommodate both individual and systemic considerations. In the following sections, contemporary ethical models—Sen's Capability Approach and Iris Marion Young's Structural Injustice Theory—will be explored as alternatives that offer more flexibility and inclusivity, addressing both patient autonomy and social justice within forensic psychiatry.

4.0 Contemporary Moral Framework Overview

To complement and expand upon classical ethics, Amartya Sen's Capability Approach and Iris Marion Young's Structural Injustice Theory offer frameworks that consider both individual and systemic factors. These models address gaps left by traditional ethics by focusing on justice, structural reform, and patient empowerment, making them particularly relevant for forensic psychiatry.

Sen's Capability Approach, which emerged in the 1980s, goes beyond merely distributing resources by focusing on expanding individual capabilities (4). This holistic framework advocates for empowering patients through autonomy-enhancing opportunities, which is crucial in a field where patient freedoms are often restricted. For instance, applying this model in rehabilitation programs can support societal reintegration by promoting autonomy and self-efficacy, even within strict security settings. However, the application of Sen's framework in forensic psychiatry remains

limited, particularly in high-security environments where autonomy must often be balanced with stringent risk management protocols (26).

Young's Structural Injustice Theory, articulated in *Justice and the Politics of Difference*, critiques societal structures that perpetuate inequality and examines how institutional biases impact justice (5). Applied to forensic psychiatry, it exposes disparities like racial discrimination in risk assessments, where Black individuals face higher detention rates and poorer care, highlighting the need for equitable treatment.

While this theory has been widely explored in healthcare, its application in forensic psychiatry is still developing, especially in terms of policy reforms for equity. More research is needed to translate these concepts into actionable reforms to address systemic inequalities effectively. By integrating Sen's and Young's frameworks, forensic psychiatry can address unique ethical challenges through a lens that emphasises both individual capabilities and systemic reform. The practical applications of these frameworks are particularly valuable in areas such as risk assessments, where the consideration of structural inequalities can inform fairer practices, and legislative advocacy, where patient empowerment can guide reform efforts. Sen's focus on patient empowerment and autonomy complements Young's emphasis on tackling structural inequalities, providing a robust foundation for ethical practice.

The following sections will explore how these frameworks can specifically inform approaches to care delivery, justice, and professional integrity in forensic psychiatry, ensuring that ethical practice evolves alongside the field's unique demands.

5.0 Informing Care Delivery, Justice, and Professional Integrity in Forensic Psychiatry

Aligned with the essay's central argument for adopting a comprehensive ethical framework, this section explores how Sen's Capability Approach and Young's Structural Injustice framework offer a holistic approach to care delivery, justice, and professional integrity in forensic psychiatry. These frameworks go beyond the limitations of classical ethics, addressing systemic and individual challenges that traditional models like deontology and utilitarianism often fail to fully encompass. By promoting both patient empowerment and institutional reform, they provide the nuanced, context-sensitive guidance needed in this complex field.

5.1 Care Delivery

In forensic psychiatry, care delivery involves navigating the delicate balance between patient autonomy and societal safety. Classical ethical frameworks, such as deontology, prioritise duty and adherence to universal principles, yet they often lack the flexibility to address the systemic issues that impede fair and effective care (14). For instance, while deontological ethics would endorse the duty to treat all patients fairly, it does not contend with institutional biases and resource constraints that create significant barriers. Research has shown that mental health services in the UK are underfunded, with only 14.2% of the NHS budget allocated to this sector, despite rising demand (27). This shortfall severely impacts forensic settings, where the emphasis on containment frequently overshadows rehabilitative care, limiting opportunities for patient autonomy as proposed by Sen's Capability Approach (4).

Sen's model advocates for enhancing individual capabilities, such as fostering self-efficacy and resilience, to promote meaningful engagement with life. This focus on capabilities is essential in forensic psychiatry, where 40% of patients report experiencing disruptions in care when transitioning from inpatient to outpatient settings (28). These transitions often lack the continuity needed for building autonomy, leading to relapse and reoffending, showing that current models are insufficient. Sen's framework emphasises continuous, supportive care, aligning with forensic psychiatry's goals of patient development and reintegration, addressing issues beyond classical ethics.

Moreover, inadequate training in cultural competence further complicates care delivery. Approximately 63% of NHS mental health staff report insufficient training in cultural awareness, which is crucial for addressing the needs of a diverse patient population (29). This deficiency leads to a lack of culturally sensitive care, disproportionately affecting marginalised groups and worsening disparities. Young's Structural Injustice framework addresses these systemic biases and calls for structural solutions, rather than viewing them as individual failings. (5). This perspective is vital for forensic psychiatry, where traditional ethical models may acknowledge the need for fair treatment but often ignore the broader, institutional factors that perpetuate inequality.

Telepsychiatry adds complexity to care delivery. While it has improved accessibility, especially during COVID-19, its ability to build strong therapeutic relationships for forensic patients remains limited. Research shows that 15% of patients report a decline in care quality due to reduced communication and personal

connection (30). Sen's Capability Approach highlights the need for relational, context-sensitive care, underscoring that accessibility alone isn't enough. This shows how Sen's framework helps balance accessibility with quality.

5.2 Justice

Systemic inequalities in forensic psychiatry are particularly evident concerning race and socioeconomic status. While utilitarianism, with its emphasis on maximising the overall good, may endorse measures that protect public safety, it often does so at the expense of marginalised groups. For instance, Black individuals are over three times more likely to be detained under the Mental Health Act than their White counterparts, and they represent 20% of those in high-security facilities despite only comprising 3% of the UK population (31). Utilitarian ethics may justify such disparities as necessary for the "greater good," but this rationale fails to account for the injustice faced by disproportionately impacted communities. Young's Structural Injustice framework, however, directly critiques this approach by emphasising the importance of dismantling the institutional biases that contribute to such disparities (5).

Empirical evidence reinforces Young's perspective on the systemic nature of these injustices. Patients from lower socioeconomic backgrounds are 25% more likely to be classified as high-risk, thereby limiting their access to community-based rehabilitation programs (32). This data underscores the role that socioeconomic factors play in perpetuating cycles of containment over rehabilitation, further disadvantaging already marginalised groups. Young's framework advocates for addressing these structural determinants of inequality through reforms that go beyond

mere redistribution of resources, instead challenging the power dynamics that maintain these disparities (5).

By incorporating Sen's focus on expanding individual capabilities, forensic psychiatry can adopt a more rehabilitative approach that contrasts sharply with utilitarian and deontological ethics. Where traditional models may focus on fairness or societal welfare, Sen's framework values each individual's ability to thrive, advocating for policies that empower marginalised individuals and promote their integration into society (4). This holistic approach to justice, which combines a focus on individual empowerment with structural reform, allows forensic psychiatry to better align with both patient welfare and broader societal interests.

5.3 Professional Integrity

Forensic psychiatrists often face dual loyalty conflicts, where the duty to prioritise patient care can conflict with institutional demands for public safety. This ethical tension is exacerbated by resource limitations and systemic pressures, with many professionals reporting a sense of moral distress due to an inability to adequately balance these competing obligations (28). Deontological ethics stresses a duty to uphold patient rights, but this often becomes unworkable when structural constraints limit autonomy. Sen's Capability Approach provides a more flexible solution, supporting patient autonomy within public safety boundaries, allowing forensic psychiatrists to manage these conflicts without sacrificing professional integrity. (4).

Further, Young's Structural Injustice framework speaks to the experiences of marginalised patients who often report feeling distrustful of forensic psychiatric

services due to perceived biases in treatment. A recent report revealed that 60% of Black patients felt their care did not adequately reflect their cultural needs (33). While traditional ethical theories might recognise the duty to provide fair treatment, they lack the tools to address these deep-seated systemic issues. Young's framework instead calls for institutional reforms that address the root causes of inequality, arguing that true justice can only be achieved by confronting these structural barriers (5).

Sen's and Young's frameworks collectively provide a robust critique of the status quo, highlighting the inadequacy of classical ethics in addressing the systemic and individual-level challenges faced by forensic psychiatrists. By advocating for patient-centred reforms and structural changes that support both professional integrity and patient welfare, these contemporary models promote a more ethical and effective practice within the field.

5.4 Summary

Sen's and Young's frameworks offer vital perspectives that enhance forensic psychiatry's care, justice, and integrity. Empirical evidence supports their importance in addressing systemic inequalities and individual rights. By promoting patient empowerment and systemic reform, these models equip forensic psychiatry to meet ethical obligations. A commitment to these principles, along with sufficient resources and cultural competence training, is key to fostering equitable and comprehensive practice.

6.0 Future Implications and Practical Applications in Forensic Psychiatry

The integration of Sen's Capability Approach and Young's Structural Injustice framework offers a promising direction for reform in forensic psychiatry. These models emphasise equitable and humane mental health care by addressing systemic inequalities. Policy developments and funding allocations across the UK, particularly in England, Scotland, and Wales, align with these goals, though practical challenges in implementation persist. This section explores how these frameworks can be applied in forensic psychiatry, assesses the feasibility of reforms, and identifies areas for further research.

6.1 Risk Assessments

Forensic psychiatry's reliance on risk assessment tools like the HCR-20 and Static-99 has been scrutinised, particularly concerning the entrenchment of biases related to race and socioeconomic status. In England, the 2023 national investigation by the Health Services Safety Investigations Body (HSSIB) highlighted ongoing issues with using outdated risk stratification models that fail to capture dynamic individual strengths, such as resilience and life skills, which are central to Sen's Capability Approach (34). These findings align with Young's critique of systemic biases, as Black individuals are still disproportionately detained under the Mental Health Act (35).

Despite a recent £150 million investment to support the reforms under the updated Mental Health Act, the Royal College of Psychiatrists (RCPsych) emphasised that at least 494 additional forensic psychiatrists are needed to effectively implement person-centred, culturally competent assessments across England and Wales (36).

This staffing shortfall illustrates the gap between policy intentions and on-the-ground capacity, suggesting that implementation will require phased training and resource allocation.

To implement these reforms, a gradual rollout of dynamic risk assessment models in pilot regions could allow for testing and adaptation. Additionally, research into validated tools that align with Sen's and Young's principles is essential to ensure the effectiveness of these assessments while reducing racial disparities. This phased approach would balance the need for immediate improvements with the logistical constraints of workforce development.

6.2 Legislative Reforms

The UK's 2024 updates to the Mental Health Act reflect a shift toward balancing patient rights with public safety (37). The Act emphasises reducing Community Treatment Orders (CTOs), which have been disproportionately applied to marginalised groups. These changes align with Young's framework by targeting institutional barriers, while Sen's focus on rehabilitation is supported by a £2.3 billion commitment through the NHS Long Term Plan aimed at expanding community-based mental health services (38).

However, substantial challenges remain. The RCPsych has raised concerns that without adequate funding and resource distribution, these legislative changes risk falling short of their goals. Specifically, the shortage of mental health professionals to support rehabilitative services highlights a need for expanded training programs and better retention strategies (36). Additionally, the entrenched nature of CTOs and

similar policies suggests that changing legislative frameworks alone may not suffice; deeper systemic reform is required to shift institutional practices effectively.

To ensure legislative reforms have a lasting impact, NHS England and regional Integrated Care Boards (ICBs) should conduct regular audits on resource allocation and service delivery outcomes. These audits could inform adjustments to ensure that funding directly supports rehabilitative goals and that changes are being implemented equitably across regions.

6.3 Community Partnerships

Community partnerships play a critical role in achieving the holistic care envisioned by Sen and Young's frameworks. The Welsh Government's Together for Mental Health strategy highlights the importance of integrating services across health, social care, and criminal justice systems to address complex needs (39). Stable housing and employment support, have been shown to reduce recidivism rates by up to 20%, underscoring the value of such partnerships (40).

Yet, the resource constraints faced by community organisations often impede their ability to provide sustained support. For example, recent funding cuts have left many community mental health services struggling to maintain their programs, indicating that without comprehensive financial backing, these partnerships cannot achieve their full potential. Therefore, funding models should incorporate long-term commitments from both government and private sectors to ensure that community-based services are viable.

An immediate step could be the creation of formalised agreements between NHS trusts and community organisations, with clear roles, responsibilities, and funding commitments. Future research should explore sustainable funding models for these partnerships and evaluate the outcomes of pilot programs that integrate community services with forensic pathways.

6.4 Training and Systemic Reform

The need for cultural competence training in forensic psychiatry is increasingly recognised. The lack of training in this area as a barrier to delivering equitable care, emphasising that a skilled and diverse workforce is essential for implementing Sen's and Young's frameworks (36) The ongoing initiatives in Wales, such as embedding cultural competence into staff development under the Together for Mental Health strategy, provide a model that could be expanded nationally (39).

Systemic reform also requires a multi-layered approach. The NHS's 2024 Quality Transformation Programme aims to address disparities in care by improving staff training and supporting a culture shift within mental health services. However, the CQC has indicated that despite these efforts, the gap between policy and practice remains wide, especially concerning institutional biases and resource disparities (33). A commitment to incremental reforms, such as cultural competence training and expanded funding for forensic services, is essential, but achieving systemic change requires overcoming deep-rooted institutional resistance.

Policymakers and professional bodies should establish national standards for cultural competence training and implement regular evaluations to monitor progress.

Additionally, future research should assess the long-term impact of these training programs on patient outcomes and institutional practices within forensic psychiatry.

6.5 The Path Forward

Although adopting Sen's Capability Approach and Young's Structural Injustice framework offers a reform pathway, challenges like funding, staffing, and systemic support persist. A national strategy with feedback, collaboration, and pilot programs is crucial to bridge ethical ideals and current practice. Further research is needed to address institutional inertia and ensure equitable care in forensic psychiatry. In summary, while progress is evident, meaningful reform will require ongoing commitment from policymakers, practitioners, and communities, alongside overcoming practical and institutional barriers.

7.0 Conclusion

Forensic psychiatry in the UK is making strides toward balancing care delivery, justice, and professional integrity, but true progress hinges on sustained, coordinated efforts. Recent reforms, such as the updates to the 2024 Mental Health Act and increased funding commitments, show promise, but their success depends on effective implementation, adequate staffing, and continuous evaluation (37).

Sen's Capability Approach emphasises patient autonomy and rehabilitation, which is reflected in current efforts to reform risk assessments and support community partnerships. Meanwhile, Young's Structural Injustice framework underscores the need to dismantle systemic biases, particularly those affecting marginalised groups, and this focus is beginning to shape policy and practice.

To ensure lasting impact, forensic psychiatry must integrate these ethical frameworks into practice, leveraging both individual rights and institutional reform. By addressing structural inequities and advocating for patient-centred care, the field is well-positioned to build a more equitable and humane mental health system that promotes dignity and justice for all.

Word Count: 3999

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