



Ethics in Forensic Psychiatry: Principles, Dilemmas, and Human Rights

Valença AM^{*1}, Dourado Junior JB², Ferreira de França M³, Rigonatti LP⁴, Cordeiro Q⁵, Gerado da Silva A⁶ and Borba Telles LE⁷

¹Institute of Psychiatry, Federal University of Rio de Janeiro, Fluminense Federal University-Niteroi-Rio de Janeiro, Brazil

²Hospital das Clínicas, Federal University of Pernambuco, Brazil

³Universidade de Pernambuco, Brazil

⁴Instituto de Medicina Social e Criminologia, São Paulo-Brazil

⁵Federal University of São Paulo-UNIFESP, Brazil

⁶Faculdade Paulista de Ciências da Saúde, Brazil

⁷Federal University of Rio Grande do Sul, HCPA, Brazil

Editorial

Volume 11 Issue 2

Received Date: May 21, 2026

Published Date: June 09, 2026

DOI: 10.23880/ijfsc-16000460

***Corresponding author:** Alexandre Martins Valença, Institute of Psychiatry, Federal University of Rio de Janeiro, Fluminense Federal University, Niteroi-Rio de Janeiro, Brazil, Email: avalen@uol.com.br

Abstract

Ethics in forensic psychiatry constitutes a complex field that integrates bioethical principles with the demands of the judicial system. Unlike traditional clinical practice, the forensic psychiatrist acts as an auxiliary to justice, prioritizing truthfulness and respect for persons. This text discusses the fundamental principles-beneficence, non-maleficence, autonomy, and justice-and their adaptations within this context. It also addresses ethical conflicts, such as the tension between care and legal judgment, practice in prison settings, and research involving vulnerable populations. The need for specific ethical models for the field is highlighted, capable of guiding decision-making in situations of high complexity and risk, reinforcing the role of critical judgment and commitment to human rights.

Keywords: Forensic Psychiatry; Medical Ethics; Bioethics; Psychiatric Assessment; Autonomy; Justice; Human Rights

Introduction

Ethics is a branch of Philosophy dedicated to the study of good and evil, encompassing guiding principles and the critical evaluation of human conduct. Throughout history, all social groups have developed norms to guide behavior. In Western societies and among professions, medicine was the first to establish ethical principles of conduct for its members, which are currently consolidated in various medical codes of ethics [1].

Principle-based ethics, also known as principlism, is one of the most widely used frameworks in contemporary ethics and bioethics. It includes the principles of beneficence, non-maleficence, autonomy, justice, and equity [2]:

Principle of Beneficence: Involves maximizing benefits in relation to risks; in other words, it is not enough to avoid harm-it is necessary to promote good. This includes the duty to provide the best possible treatment.

Principle of Non-Maleficence: Involves ensuring that possible physical or psychological harm is avoided, meaning that knowledge should never be used to cause harm. In psychiatric research, even when physical risks are minimal, possible emotional consequences must be considered.

Principle of Autonomy: Refers to the right to free choice and self-determination of the patient. This includes the fundamental issue of obtaining informed consent. In psychiatry, there is the particular challenge of individuals who are vulnerable or have reduced decision-making capacity due to illness. Therefore, appropriate information, clear language, absence of coercion, and decision-making competence are essential.

Principle of Justice and Equity: Assumes the social relevance of research and its socio-humanitarian purpose. It also requires equal consideration of interests, fair allocation of resources without discrimination, and equitable return of benefits resulting from research.

The medical expert (forensic physician) is the technically qualified and legally authorized professional responsible for conducting medical evaluations at the request of judicial or administrative authorities.

Ethics and its Relationship with Forensic Psychiatry

Regarding essential ethical principles in psychiatric evaluation, there is agreement among leading authors that the expert's primary commitment is to the judicial system [3]. The principles of truthfulness (commitment to the truth) and respect for persons must be strictly observed [1].

Miranda de Sá LS, et al [4] add the following principles to be followed in psychiatric evaluation [4]:

Confidentiality: In medical examinations, unlike clinical practice, the expert must inform the examinee that standard confidentiality does not apply, as information will be reported to the competent authority. However, in psychiatric research, confidentiality must be preserved at all stages.

Fidelity: The physician must prioritize the interests of society, then their own, and finally those of the examinee. The expert acts as an assistant to justice.

Impartiality and justice: Requires emotional neutrality, without moral judgments or preconceived opinions about the case.

In Brazil, a distinction is made between the forensic psychiatrist acting as an expert, who responds to judicial

demands, and the technical assistant, who is linked to one of the parties. According to the Code of Civil Procedure (art. 466), technical assistants are trusted by the party and are not subject to impediments or suspicions [5].

Both roles must be guided by honesty and truthfulness. However, impartiality is a fundamental characteristic of the expert's role and is not required of the technical assistant due to their connection with one of the parties [6].

Forensic psychiatry presents ethical specificities that substantially differentiate it from traditional clinical practice. This is because the forensic psychiatrist operates in a context where there is no classical doctor-patient relationship, but rather a relationship mediated by legal and judicial demands. In this scenario, the professional often faces conflicts between fundamental ethical values, especially between beneficence and justice [7].

While traditional medicine prioritizes the patient's well-being as its main goal, in forensic psychiatry the central objective tends to be contributing to justice. In this sense, Appelbaum proposes that the fundamental ethical principles of this field are truthfulness and respect for persons, emphasizing that commitment to truth plays a central role in expert practice [8]. This shift implies that the forensic psychiatrist does not primarily act as a therapeutic agent but as a technical assistant to the judicial system.

Furthermore, recent systematic reviews indicate that forensic psychiatry can be understood through two distinct ethical models: a clinical (correctional) model and a legal (forensic) model. In the clinical model, traditional bioethical principles—beneficence, autonomy, and non-maleficence—remain relevant, especially in providing care to individuals deprived of liberty. In the legal model, these principles are reinterpreted: beneficence becomes objectivity, justice becomes professionalism, and autonomy becomes the guarantee of informed consent [9].

This ethical dualism reveals a structural tension in the field. On one hand, there is the obligation to promote the well-being of the evaluated individual; on the other, there is the duty to contribute to judicial decisions that may result in restrictions of freedom or other adverse consequences. This tension is particularly evident in contexts such as involuntary hospitalization, criminal responsibility evaluations, and assessments of individuals considered dangerous.

Another relevant aspect concerns practice in prison settings. In these environments, the principle of equivalence of care stands out, establishing that individuals deprived of liberty should receive healthcare equivalent to that available to the general population. However, this principle often

conflicts with structural limitations and institutional security demands [9].

Additionally, the issue of autonomy becomes particularly complex in forensic psychiatry. Many evaluated individuals present mental disorders that may impair their decision-making capacity, raising questions about the validity of informed consent. In such cases, the psychiatrist must carefully assess decision-making competence, balancing respect for autonomy with the need to protect against harm [10].

Research in forensic psychiatry also presents specific ethical challenges, especially when involving vulnerable populations, such as prisoners or institutionalized individuals. Studies indicate that these groups are at greater risk of coercion, explicit or implicit, requiring additional rigor in obtaining consent and protecting participants [3]. In this context, research ethics must ensure that participation is truly voluntary and that potential benefits justify any risks involved.

Another important point concerns harm prevention. The principle of non-maleficence, although universal in medical practice, takes on specific contours in forensic psychiatry, including the prohibition of participation in practices that may result in degrading treatment, torture, or the death penalty. This reinforces the psychiatrist's commitment to fundamental human rights, even within diverse legal systems [9].

Conclusion

Finally, it is important to highlight that ethics in forensic psychiatry is a constantly evolving field, influenced by social, legal, and scientific changes. Contemporary literature points to the need to develop specific ethical models for this field, taking into account its particularities and avoiding the simplistic application of traditional clinical principles. Thus, professionals must be prepared to deal with complex dilemmas, often without simple or consensual answers, requiring critical judgment, solid theoretical grounding, and rigorous ethical commitment.

In summary, ethics in forensic psychiatry requires not only technical expertise but also a high capacity for moral judgment in complex and often conflicting situations. The psychiatrist's role in this field demands a balance between

commitment to truth, protection of human rights, and responsibility to the justice system. Contemporary studies emphasize that the consolidation of a specific ethical framework for forensic psychiatry is essential to guide decision-making in contexts of high vulnerability and risk, reinforcing the need for continuous training and critical reflection on professional practice.

References

1. Tabora JGV, Castro Bins HD (2009) Ethics in Forensic Psychiatry: Old Dilemmas, New Challenges. *Rev Bioética* 17(2): 191-201.
2. (2007) Regional Council of Medicine of the State of São Paulo (CREMESP). *Ethics and psychiatry*, 2nd Edition, São Paulo.
3. Tabora JGV, Arboleda-Flórez J (2006) Ethics in forensic psychiatry: expert and clinical activities and research with prisoners. *Rev Bras Psiquiatr* 28(SII): S89.
4. Miranda de Sá LS, Bayardo EB, Bayardo G (2001) Ethics in psychiatric expertise. In: Moraes T (Ed.) *Ethics and forensic psychiatry*. IPUB-CUCA, Rio de Janeiro.
5. Brasil (2015) Law No. 13,105 of March 16, 2015. Code of Civil Procedure. Presidency of the Republic, Brasília.
6. Goldim JR, Ribeiro de Almeida M, Moreira CG, Abdalla-Filho E (2016) Ética em psiquiatria forense. In: Abdalla-Filho E, Chalub M, Telles LEB (Eds.) *Psiquiatria forense de Tabora*. 3rd Edn, Artmed, Porto Alegre.
7. Adshead G, Sarkar S (2005) Justice and welfare: two ethical paradigms in forensic psychiatry. *Australian & New Zealand Journal of Psychiatry* 39(11-12): 1011-1017.
8. Appelbaum PS (1997) A theory of ethics for forensic psychiatry. *J Am Acad Psychiatry Law* 25(3): 233-247.
9. Niveau G, Welle I (2018) Forensic psychiatry, one subspecialty with two ethics? A systematic review. *BMC Med Ethics* 19: 25.
10. Tabora JGV, Abdalla-Filho E, Garrafa V Ethics in forensic psychiatry. *Curr Opin Psychiatry*.