Volume 2 | Number 1 (Spring/Summer 2016)
www.jheaonline.org
ISSN 2474-2309
doi:10.22461/jhea.4.7167

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A Moral Justification for a Universal System of Healthcare

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Keywords: *theory of justice, equality, universal healthcare system, autonomy.*

Despite the wealth of intellectual effort expended proposing and defining theories of justice, there seems to be a lack of consensus between philosophers, economists, and politicians about what justice requires of our society in providing health care to all of its members. There are, however, some fundamental and widely defended claims about justice that any complete and plausible theory of justice must address. Although these claims remain far from similar in their requirements of justice, the ends they seek are at the very least compatible. Thus, in this paper I shall justify a universal health care system by appealing to what I consider to be the most significant of these compatible claims of the seemingly competing social philosophies of equality and liberty.

A basic conflict between equality and liberty consistently arises when one reflects on the requirements of justice and fairness in our society. Many would agree that a moral obligation exists to diminish disparities between advantaged and disadvantaged groups; on the other hand, we must respect individual liberty and autonomous decisions. With respect to health care, competing theories of justice emphasize the moral importance of either equality of health care distribution or the liberty of an individual to use his resources in accordance with his own conception of justice. Systems of health care delivery and financing appear to be constructed along a continuum, "from those that are characterized by great equity but employ considerable collective coercion to those that achieve little equity but encroach less on individual liberty" (Menzel 2002).

However, the development of a health care system need not depend solely on a single theory of justice and the specific tenets for which its proponents argue. It is possible to deliver and finance health care through a system that aims for equality of outcome, access, and opportunity while advancing the needs of the worse off and respecting the individual choices of all persons who voluntarily or obligatorily pay into the system. At first glance, these goals of maximizing equity, prioritizing, and respecting liberty might seem incongruous with one system of health care that is constrained by a scarcity of resources and a considerable number of claims to these scarce resources. On the contrary, they are both compatible with each other and applicable to a single system because they aim at the basic goal of justice: giving to persons what is due. A unitary health care system with a robust floor of minimum services and optional supplemental coverage can achieve the goals of maximizing equality while respecting individual liberty.

Before elaborating on the details of such a system, I will present the best claims for the requirements of justice according to the goal of giving to persons what they are due. The claim that all people should have equal access to health care in order to promote equality of outcome and opportunity most appropriately aims at this end of justice. Hessler and Buchanan (2002) attempt to defend the right to health care by appealing to the claim that health is a basic human interest that is universally shared; this universal acceptance of health as a "good" permits assigning obligations to others (or to society in general) to ensure or protect it. At the very least, justice requires "equal consideration for all persons" to achieve an adequate level of health because of its intrinsically ubiquitous appeal. By denouncing the reform-attempting efforts of managed care as unsuccessful, Madison Powers (2003) effectively justifies the sacrifice of some level of innovations and quality to ensure greater equity in access to health care as a minimal requirement of justice. He also argues, in conjunction with his colleague Ruth Faden (1999), that we are obligated, as a matter of basic fairness, to extend to all Americans benefits similar to those we enjoy, unless we are willing to forgo these benefits. They state that "the only truly satisfying outcome is a public policy that ensures all Americans access to an

adequate level of health insurance." Of course these basic requirements of justice for equity of access are subject to the economic and social particulars of our society. Despite this limitation, they provide a strong moral foundation for any system of health care that places serious moral weight on justice and fairness.

Why should we even be concerned about equity of access? What end will equal access achieve for individuals within a system that guarantees equality? Are all persons entitled to the same amount of health care under the aforementioned requirement of equal access? These questions will be answered by appealing to another basic claim about justice: justice requires the equality of net welfare and opportunity to all individuals over their lifetime. Equity of access to health care according to need reduces the impact of disease and disability in order to promote normal functioning and enhance individuals' aggregate lifetime welfare. Both Veatch (2003) and Daniels (2002) defend similar requirements of justice even though their theories of justice differ. Veatch argues for a distribution of health care that has as its starting point the need for care because an equal distribution would force those negatively affected by the natural lottery to remain worse off than those assisted or at least not affected by the lottery. A right to health care, therefore, should be seen as a right equal in proportion to need: "People have a right to needed health care to provide an opportunity for a level of health equal as far as possible to the health of other people." Without making an explicit claim for evidence of need for care as a determining factor for access, Daniels requires of a health system access to a level of services that diminishes the burden of disease in order to "effectively promote normal functioning and thus protect equality of opportunity." Thus both theorists justify access to the appropriate care that would improve the long term outcome of individuals (defined as "net welfare" by Veatch and "equality of opportunity" by Daniels). Within the framework of a "liberty-friendly" concept of justice, Menzel (2002) proposes the Principle of Equal Opportunity for Welfare, a composite of the claims made by Veatch and Daniels. This principle asserts that "people should not be worse off than others through no fault or voluntary choice of their own." Leaving aside issues of culpability, these considerations of equality of outcome give us sufficient moral reasons to attempt to achieve equality of access, the basic claim of justice defended by Hessler and Buchanan, Powers, and Faden.

Thus far I have characterized two aspects of justice that must be minimally addressed by any theory of justice and any system of health care that views justice with significant moral import: equality of access and equality of outcome (understood to include both welfare and opportunity). There are, however, theoretical and practical difficulties with both of these claims. First, it is highly unlikely that even in a perfectly egalitarian system all persons can actually achieve an outcome that has sufficiently decreased the burden of disease and enhanced the opportunity of social achievement. This may be attributable to the limits of modern medicine, inherent disparities in either the social or natural lottery that health care cannot alleviate, or other personal and systemic barriers to equal social recognition. Second, as I alluded to before, the level of services provided in an attempt to achieve equality of access is dependent on social and economic conditions that affect resource availability.

Taking these concerns into consideration, I turn to a third basic claim about justice that may provide some assistance. If we must work within social and economic parameters that may prevent or limit complete equality of access and outcome, than justice will require us to advance the welfare of the worse off because they are the worse off. Because neither concerns for equality of access nor minimizing aggregate reduction in opportunity guarantees that priority be given to those who lack access or equal opportunity, justice requires us to address the concerns of those with the most urgent needs and strongest moral claims for assistance. Dan Brock (2002) supports this prioritarian view because we should be concerned with "how individuals are treated relative to other individuals" and "which inequalities between individuals or groups are just or unjust." Since goals of equity may fail to completely address these inequalities, Brock argues that we give priority to the worse off because this will result in (1) a greater relative improvement from a given intervention, (2) a greater impact on reducing or eliminating undeserved deprivation, and (3) a greater emphasis on the people with more urgent needs. Determining who is actually worse off and how much priority should be given to them is significantly more ambiguous. Thus, I shall simply appeal to the morally forceful argument that when the requirements of equality fail to adequately address inequalities between individuals, a rational and just health care system should give priority to those who are most in need of the services provided by the system. Stuart Butler's (1999) proposal to expand health care through tax reform offers a practical example of this prioritization. His proposed system of tax credits for outstanding medical expenses improves access and funding for members of society with the most financial disadvantage: "the refund credit would concentrate most assistance on those families with the highest level of health expenditures compared with family income." With the help of Brock and Butler, we have now established several basic claims about justice that require a health care system to strive for equality of access and outcome while focusing most intently on the needs of the most disadvantaged.

While the claims mentioned thus far are intuitively compatible because they have as their underlying justification an egalitarian social philosophy, introducing claims of liberty threatens the survival of this compatibility. However all hope should not be lost if we assume that the compatibility of differing aspects of justice should be derived not from a specific social philosophy but instead from the ultimate goal of justice, giving to others what is due to them. When this perspective is taken, claims of justice may include appeals to both equality and liberty and still remain compatible since they aim at providing what

one deserves (instrumental goods and respect for individual choice, respectively). If this argument for the compatibility of differing aspects of justice is plausible, than respect for individual liberty should be introduced as another basic claim about justice: "Individuals always have the secular moral authority to use their resources in ways that [may] collide with fashionable understanding of justice or the prevailing consensus regarding fairness" (Engelhardt 2003). Insofar as people own property, they have a right secure it for their own good. The redistribution of owned goods, according to Tristram Engelhardt, depends not on the needs of others but on the consent of the owner to relinquish property for the good of others. Justification for the overbearing priority given to property rights must be provided by the libertarian theorist; the inclusion of this aspect of justice in this discourse simply serves the function of integrating into a complete theory of justice the need to respect the individual rights of acquiring, protecting, and freely using private property since all persons are due this right.

It is here that I arrive at what I consider to be the best of the available and compatible accounts of justice. Any complete and plausible theory of justice (qua giving what is due) must at least address these features of justice: equality of access, equality of outcome (welfare and opportunity), priority to the worse off, and respect for individual liberty. The basic conflict between "wanting to make sure everyone is treated properly with regard to health care and wanting to give people the liberty to use their resources (after tax) to improve their lives as they see fit" (Daniels) remains; but it can be resolved by designing a unitary system with supplemental coverage, thus accomplishing the goals of both equality and liberty.

Although I am more concerned about the theoretical and moral justification for such a system, some description of its arrangement is necessary. My preferred system of health care closely resembles that of Canada: unitary financing and pluralistic delivery. The system would be centralized such that the government controls costs and reimbursements; funds for the system would be derived from taxes either for the sole purpose of health care or from general revenue. Health care providers would receive either a salary or a predetermined compensation for services provided. A global budget or cap on expenses would be set based on the amount needed to achieve sufficient aggregate health outcomes. These outcomes would be determined according a standard of care that effectively promotes normal human functioning (similar to Daniels's argument). All services that might be necessary to achieve this level of functioning would be included in the primary tier of services guaranteed to all members of the population. A second "supplemental" tier would be available to any persons that wished to achieve health outcomes of enhanced human functioning, as opposed to simply normal human functioning. This supplemental tier would not include any services that would reduce or eliminate the effects of any disease or disability that prohibits normal human functioning; these would all be covered in the basic tier.

Even though most of the services offered by any health care institution would be easily separated into the two tiers, much work would be required to determine into which tier some borderline services would fall. For example, should the basic tier cover the expenses necessary to allow a deaf couple to have a deaf child (i.e. preimplantation genetic diagnosis, gene selection, and in vitro fertilization) because deafness is considered by them to be normal human functioning? Despite the logistical and logical difficulties presented by this case and many others like it, a reasonable system of basic coverage could be implemented for all participants. By establishing two separate tiers of available coverage, the threat of these tiers collapsing into one is very real. If the basic tier covers an insufficient amount of services, the affluent may choose to buy their way out of the system in search of a privatized market, and the sickest (and often poorest) may find themselves surviving only by acquiring the more comprehensive and costly coverage. Inappropriately substandard determinations of normalcy may also allow the healthiest individuals to choose insufficient coverage, causing outrageous costs in catastrophic care, for example, expensive emergency room visits. These threats of privatization, tier collapsing, and risk selection can be avoided by providing a substantially robust minimum of services in the basic tier.

There are numerous social and economic advantages of such a system. Universal coverage would deliver the medical aspects of health (as opposed to the public health aspects of sanitation, clean water, and so forth) more efficiently and fairly while substantially decreasing fragmentation of care. There would be a powerful incentive for society to stress prevention with initiatives such as smoking cessation, immunizations, cancer screening, etc. The savings in administrative costs and wasteful overhead would be astronomical. Most importantly, universal access to health care would foster a social awareness of health as a public and collective good instead of an individual achievement.

As important and compelling as these arguments are, they provide no moral justification for a universal system. Yet the system that I have proposed consistently and thoroughly adheres to the basic features of justice for which I previously argued. A unitary system with a comprehensive minimum and an optional supplement attempts to achieve standardized level of access for everyone by guaranteeing the services included in the basic tier to all. These services would reduce disease and disability and promote normal human functioning in an effort to enhance equality of welfare and opportunity. Since all members of society are entitled to the services necessary for achieving normal functioning, the needs of the worse off will be attended to in a manner consistent with the distribution of services within the system. Finally, since the basic tier of services would be designed to address the most vital needs of the entire population, including those inclined to protect their own resources, the liberty of individuals

need not be compromised without their permission. In addition, the availability of supplementary coverage allows those with sufficient purchasing power to further exercise their liberty. The proposed health care system is thus morally justified by a theory of justice that reconciles the often discordant notions of equality and liberty. The resulting set of compatible claims about justice requires that our society establish a system of health care delivery and financing that differs remarkably from the options available in our society today.

I understand that the distinction between tiers depends on the interpretation of the concepts 'normal,' 'enhanced,' 'disease' and 'disability.' Even the most intellectually sound philosophers have not been able to reach a consensus on how these concepts should influence the way medicine is practiced. This does not undermine the importance of determining which services would promote a reasonable notion of normal functioning.