

Solidarity: An Alternative Justice in Health Care Policy Debate

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Theories of distributive justice are commonly used in health care policy debates in the United States, specifically with respect to whether or not individuals have a right to health care. These theories are used to argue about how benefits and burdens should be distributed among groups of persons (e.g., equally; according to need, effort, contribution, or merit; or free market exchange).¹ This essay discusses two common theories of justice, libertarianism and liberal egalitarianism, showing how they lead to two different understandings of rights, which in turn endorse two different interpretations of a right to health care. It argues that the use of distributive justice as the foundation for the public policy debate over health care is problematic due to the lack of agreement upon what distributive justice means. The essay then turns to the concept of solidarity as an alternative to distributive justice as a foundation for debates about health care policy. The purpose of this essay is not to develop a comprehensive theory of solidarity as the foundation for public policy debate over health care, but rather to suggest a change in the discussion from the language of justice and rights to that of solidarity and goods.

Theories of Justice

Two dominant theories of justice in the debate over health care policy are libertarianism and liberal egalitarianism. This section discusses these two theories, their interpretations of a right to health care, and the implications of these interpretations for health care policy.

Before discussing these theories, it is important to describe the role of rights in theories of justice. In general, theories of justice seek to determine the rights of individuals. Rights can be divided into two categories: negative (or non-interference) rights and positive (or entitlement) rights.² Negative rights are the rights of an individual not to be interfered with, so a negative right

to health care means that an individual has the right not to have others interfere with his or her access to health care goods and services. Positive rights are the rights of an individual to have goods and services provided by others, generally through redistributive taxation by governments. Individuals reap the benefits of a positive right, while all members of society are responsible for providing these benefits. Individuals with a positive right to health care are entitled to the provision of health care goods and services even when they are unable to pay for it. In general, rights, once established as such, are viewed as absolute and universal, so the question that must be answered in the public policy debate is not whether rights should be protected or provided but *how* they should be protected or provided.^{2,3} This section illustrates how different theories of justice yield different interpretations of a right to health care, thereby creating an impasse in the debate over health care policy at the argument over the characterization of health care as a right.

Libertarian political philosophy is committed to self-ownership (i.e., the ownership of oneself, one's talents, and the things produced by one's talents).⁴ Because one owns one's talents and the products of one's talents, one has an absolute right over one's income. Accordingly, just distribution of goods and services is achieved by free market exchanges. In addition, any redistributive taxation scheme is inherently unjust because it violates the right of individuals to their property. The rights afforded to individuals from a libertarian perspective are negative: citizens are protected from interference into their affairs by the government and by other individuals. Therefore, a libertarian right to health care is the right to not have others interfere with the health care of an individual. There is no requirement for individuals to provide personal resources to ensure that others have such access.

In contrast to libertarian political philosophy, liberal egalitarian political philosophy, first championed by John Rawls, is committed to both liberty and equality.^{5,6} According to this theory, justice, requires equal distribution of all social primary goods unless unequal distribution of these goods results in an advantage to the least well off. Therefore, the least well off have a right to benefit from redistributive welfare policies. Moreover, because a liberal egalitarian society provides a safety net for those individuals who are the least well off, all members of society benefit knowing that they will be taken care of in times of misfortune. Liberal egalitarian theory has been used to justify the redistribution of resources so as to benefit those who are the least well off with respect to health and health care (e.g., those who cannot afford insurance or those who suffer from poor health).^{1,7} Medicaid, which provides health insurance to many individuals in the U.S. who cannot afford it, illustrates a liberal egalitarian welfare program. It is paid for by federal and state taxes, collected mostly from middle- and upper-income individuals, while benefiting mainly low-income individuals.⁸ Liberal egalitarian philosophy can support a positive right to health care that benefits the least well off and is paid for by those who are better off.

Problems with Justice

While libertarianism and liberal egalitarianism are by no means the only two political philosophies that play a role in the debate over health care policy, they sufficiently illustrate the central problem with using justice as a foundation for this debate: there is not agreement among theories about the meaning of justice, which results in disagreement about the rights of individuals. The debate has met an impasse at the argument about the characterization of health care as a right. Without agreement about this larger issue, the public policy debate cannot move forward into a discussion of how health care should be protected and provided.

Not only is justice problematic as a foundation for the public policy debate over health care because of the incompatibility of political philosophies, it is also problematic due to its focus on the individual, on universality, and on rationality. For example, a robust theory of liberal egalitarian justice focused on the entitlement of

citizens to equality of opportunity would most likely result in a health care policy in which health care is provided to those who need it the most but cannot afford it. This type of policy, designed to benefit the least well off, paid for by one sector of society and utilized by a different sector, has the potential to foster division rather than unity.⁹ It sets up a tenuous situation in which the health care program can lose the support, both political and financial, of those who pay for it if they perceive that those who receive the benefits are taking advantage of the system.³

In addition to a focus on the individual, theories of justice make universal claims. As Houtepen³ remarks, “a right is a right and a duty is a duty.” In asserting that health care is a positive right, a theory of justice is saying that all persons have an equal entitlement to health care. That is, all persons should receive a basic minimum of health care regardless of geographic location, cultural beliefs, and other factors.⁷ The universality of justice claims does not allow for different interpretations of a right to health care based on cultural beliefs or available resources among other factors. In other words, when a basic minimum is defined, it is the responsibility of all just societies to provide it to all citizens.

Theories of justice also emphasize rationality in their approaches to public policy. They focus on calculating what individuals owe and are owed within society rather than on fostering a sense of community and mutual reciprocity.³ To summarize, the liberal idea of justice that emphasizes individual rights and responsibilities has the potential to foster resentment within society, is not sympathetic to variations among societies, and is coldly rational.

Solidarity as an Alternative to Justice

In contrast to the debate over health care policy in the U.S., much Western European health care policy is founded on the concept of solidarity.^{9,10} The idea of solidarity originated in 19th century labor movements as a basis for the development of social security and health care benefits for workers.^{10,11} Solidarity “connotes collective obligation and mutual reciprocity based on feelings of social unity.”⁹ The concept of solidarity is based on the idea that members of a group can share a conception

of a component of the good life and agree upon actions that make it achievable for all members of the group.¹² Often, the component of the good life shared among group members is the result of a common vulnerability that can be either overcome or lessened by contributions from the group as a whole. Because all group members are faced with this vulnerability, they see the provision of resources to alleviate or overcome it as a common good. A health care policy founded on solidarity recognizes the common vulnerability of all members of society to illness, disease and disability. All citizens contribute to a health care system that they all have access to, thereby decreasing everyone's vulnerability to illness, disease and disability.

The concept of solidarity has the potential to overcome the impasse present in the health care policy debate founded on justice. A health care policy founded on solidarity is the result of a voluntary agreement made by members of society about a common vulnerability and the goods and services that should be provided to combat this vulnerability. Solidarity-based welfare policies do not define rights, but rather delineate common vulnerabilities and foster voluntary agreement upon the goods and services that should be provided to individuals who succumb to these vulnerabilities. Solidarity does not require agreement among political philosophies about a theory of justice and rights. And, because it is based on voluntary agreement rather than coercive force, solidarity-based welfare policy could be acceptable even to minimal theories of justice that recognize only negative rights (e.g., libertarianism).

In addition to being a concept acceptable across political philosophies, solidarity provides a solution to the problems of justice as a basis for health care policy (i.e., the focus on individuality, universality, and rationality). Rather than separating those who benefit from those who bear the burden of costs, solidarity-based health care policy requires all to contribute and guarantees that all benefit, thereby fostering unity rather than division. While theories of justice try to delineate the universal rights of individuals along with the goods and services to which individuals are entitled, solidarity attempts to delineate the common vulnerabilities of a group and foster agreement among individuals. Solidarity is there-

fore more fluid than justice, allowing groups to change policies based on changing needs and resources, without violating the rights of individuals. Furthermore, because solidarity does not require universality, it allows for the idea of subsidiarity—that needs should be fulfilled at the lowest level of social or political organization—to be incorporated into health care policy.¹⁰ Subsidiarity encourages agreements to be made among the smallest groups possible, which allows for a greater participation among members, creating more cohesive groups with greater potential to agree upon common goods and the actions required to achieve these goods. Solidarity also provides an alternative to the cold rationality of justice, which is focused on calculations of what individuals owe each other.^{11,13} Solidarity is a concept based on interconnectedness, social unity and common understanding.^{9,11} It relies on empathy with others and cooperation in identifying and responding to a common cause.^{9,11} Solidarity, therefore, emphasizes the common rather than the individual good, local rather than universal agreement, and empathy rather than rationality.

Problems with Solidarity

While solidarity provides a strong alternative to justice in the debate over health care policy, it also has some problematic aspects. First, solidarity uses the language of goods rather than the language of rights, making it rhetorically weaker than justice. A right requires the provision of whatever is necessary to achieve it while a good does not. Therefore, solidarity-based health care policy development requires debate and compromise about what goods should be provided and how they should be provided. It is also open to constant revision because the provision of goods is based on agreement rather than requirement. Furthermore, specifically in the U.S., the concept of solidarity is not the foundation of established welfare policies (e.g., Medicaid), making its use as a foundation for health care policy debate difficult. It is not, however, a completely foreign concept in the U.S. For example, on September 11, 2001 U.S. citizens became acutely aware of their common vulnerability to terrorist attacks. Support for defense spending ever since has been strongly rooted in the recognition of this common vulnerability and the need for a united effort to decrease it.

A final problem with solidarity as a foundation for health care policy is that, while people share a general vulnerability to illness, disease and disability, there is a limit to what is shared. For example, individual choice plays a significant role in the causation of many diseases (e.g., obesity, lung cancer, and sexually transmitted infections). In theory, the scope of a solidarity-based health policy could be limited to conditions that are due to unfortunate chance rather than choice, but in reality it would be hard to separate the two and there could be overlapping causes. If, for example, only one out of ten women who smokes, has high cholesterol and mild hypertension suffers a heart attack, is she a victim of chance or of choice?

Conclusion

This essay demonstrates that theories of justice have incompatible conceptions of rights and are, therefore, not ideal as the foundation for public policy debates about health care. It argues that the concept of solidarity, with its emphasis on mutuality and collective obligation, is a better foundation. Solidarity provides an alternative that focuses on the common good, the local scope of agreement, and empathy. It does, however, have its own problems, including weaker rhetorical strength when compared to justice, lack of roots in U.S. welfare policies, and the practical difficulty of determining the limits of common vulnerability to illness, disease, and disability. While this essay does not present a comprehensive theory of solidarity or a health care policy consistent with this theory, it encourages a transition in the debate over health care policy from that of justice and individual rights to solidarity and common goods.

NOTES

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