THE RELEVANT REASONS FOR DISTRIBUTING HEALTH CARE

Andreas Teuber
University of Washington

It was a particular hobby-horse of Shaw's to complain about the "market method" of health care distribution. "That any sane nation," he wrote in the Preface to *The Doctor's Dilemma*, "having observed that you could supply a loaf of bread by giving a baker a pecuniary interest in baking for you, should go on to give a surgeon a pecuniary interest in cutting off your leg, is enough to make one despair of political humanity."[1] But Shaw never gave very much in the way of argument for his opinions. It was the sort of practice which was according to him, "too insane" to require argument. Bernard Williams in his Idea of Equality offers an argument. The central focus of this paper is on his argument.

I

Williams argues that "the proper ground of distribution of medical care is ill health" and that "this is a necessary truth."[2] His argument is part of a more general concern to elucidate the notion of equality. The market economy model of health care distribution is, on this view, inegalitarian. It is not surprising to see the concept of equality used in this context. State provision for the material well-being of its citizens is generally associated with egalitarianism, if not with a very clear idea of equality. Williams' argument is not explicitly an argument for state provision of medical care, although it is an argument for distributing medical care solely on the basis of "need." However, it is hard to imagine who the distributor of such a service could be if not the State. For all practical purposes, then, Williams' argument may be considered to be an argument for some system of public health care. The argument is in two parts. First, Williams presents an idea of equality which is "a strengthening" of the weak principle of procedural equality. Secondly, he tries to show how we might employ the idea in making an actual "public" choice. I shall be particularly interested in the way in which Williams' idea of equality enters into his discussion of health care. I should say that I do not believe that the particular interpretation which Williams gives to the idea of equality establishes the claim that differences in wealth should afford no grounds for discriminating among persons who are "in need" of medical treatment. This is not to say that an appeal to some principle of equality is inappropriate in this case. It is

---

Andreas Teuber received his Ph. D. in philosophy from Harvard University and is currently an Assistant Professor of Politics at the University of Washington. During 1980-81 he was a member of the Institute of Advanced Study at Princeton. His book, Ideas of Equality, *is forthcoming and he is working on the philosophy, politics, and history of the secret ballot.*

just to say that Williams' idea is not it. The problem with Williams' strengthening of the weak principle is that his "new" principle remains weak in the same ways that the principle from which it is derived is weak. The argument also contains what I believe are some very serious confusions about what is usually involved in disputes over the forms our social institutions should take and over what public choices are to be made.

Williams' idea of equality is a "strengthening" of a principle of procedural equality in the sense that his idea places a restriction on the reasons a person may cite as grounds for his treatment of others. After all everyone has his reasons, but not just any reasons will do. An employer who refuses to consider a man for a job "simply because he is black" or "simply because he is poor" appears to be acting as arbitrarily as if he had offered no reasons at all. Requiring a person to give reasons, Williams writes "cannot accord with anyone's idea of equality." But "when one requires further that the reasons should be relevant . . . this really says something."[3]

It is odd to think that a notion which is not very clear, equality, can be clarified by a notion of relevance which, at least on first mention, does not appear very clear itself. Since it must always make sense to ask "relevant to what," relevant reasons attach themselves to the means we adopt to attain certain ends. In this sense to require that a person treat others in relevant rather than irrelevant ways is to require that his treatment be rational.

Williams himself never offers an explicit definition of relevance, although W. T. Blackstone in his "On the Meaning and Justification of the Equality Principle" attempts the following:

> To say "x is relevant," when we are speaking about the treatment of persons, means "x is actually or potentially related in an instrumentally helpful or harmful way to the attainment of a given end and consequently ought to be taken into consideration in the decision to treat someone in a certain way."[4]

Ignoring, for the moment, other difficulties of the formulation, requiring merely that x be related to a "given end" concedes too much, for most reasons a person offers for his treatment of others are relevant in this sense. Most considerations are usually relevant to some given end. J. R. Lucas seems to take a similarly broad view of the notion of relevance when he writes: "It is irrelevant to whether a man should be allowed to exceed the speed limit that he is rich or that he is not rich, though not that he is a policeman in pursuit of a criminal."[5] Presumably it is relevant to give the policeman "special" treatment by allowing him to exceed the speed limit in this particular instance because what he is doing has as its end the capture of a criminal and that's what policemen do. From another point of view allowing the policeman to exceed the speed limit is an exception which is not relevant to the general purpose of the law itself; the fact that the policeman is speeding is relevant to his being prosecuted for violating the speed limit. Or we might say of a case

where a policeman stops someone for speeding and rather than ticket him accepts a bribe that the relevant reason for accepting a bribe is his desire to supplement his income. And to a criminal who is trying to escape from the policeman and does not wish to get caught exceeding the speed limit is also a relevant consideration. The requirement, then, that reasons should be relevant will only "really say something" if there is some way of specifying or limiting what is to count as "a given end."

Williams uses the notion of relevance in two different, though related ways. He uses it in the context of discussing what sorts of reasons are moral reasons for treating someone in a certain way, and in the context of discussing the grounds for distributing and receiving particular sorts of goods. It is in the latter context that the question of health care comes up, but it is in the former context that the notion of relevance is introduced. Williams believes that it is "quite certainly false" that "the question whether a certain consideration is *relevant* to a moral issue is an evaluative question."[6] Thus, Williams:

> The principle that men should be differentially treated in respect of welfare merely on the grounds of their color is not a special sort of moral principle but (if anything) a purely arbitrary assertion of will, like that of some Caligulan ruler who decided to execute everyone whose name contained three R's.[7]

The implication here is that certain characteristics of a person render him a fit subject for moral concern and certain characteristics do not, and what characteristics are relevant to a moral question is not a matter for further moral dispute. Therefore, "to state that a consideration is relevant or irrelevant to a certain moral question is not itself to commit oneself to a certain kind of moral principle or outlook."[8] On one level Williams seems to be making a point which is fairly obvious and, at a certain level of abstraction, true. Certainly the mere fact that a man is black cannot be a moral reason for treating him differently from other men. We may even want to say that the mere fact that a man is black cannot be a reason at all, let alone a rational or "moral" reason. This may be true of other facts about men such as a man's age or the color of his hair. The mere fact that someone is old and has grey hair does not make that person a proper subject for respect. But all we may be saying now is that these facts are rarely offered by themselves as the grounds for treating someone in a certain way. These facts, these so-called "mere" facts, are usually correlated with other facts about a person which may be "candidates for relevance to the question of how a man should be treated." Perhaps this is all that Williams means to say: skin color by itself can never count as a moral reason for singling a person out for special treatment. Williams recognizes that "few people can be found who will explain their practice [of color discrimination] merely by saying, 'but they're black'."[9] He realizes that if any reasons are offered they will seek to correlate the fact of their blackness with certain other facts. And yet, he says these correlations are very often "not really believed, or quite irrationally believed."[10] In a given instance Williams

might be right, but his comment is just not true of most cases of color discrimination. Discrimination is rarely "a purely arbitrary assertion of will." The Southern slaveholder who correlated the fact of blackness with the facts of childlike innocence, docility, cheerfulness, and femininity did not only believe these correlations, in a certain sense of rationality these correlations were quite rationally believed by him: that is, they formed part of a coherent system of beliefs and were consistent with beliefs which he shared with other members of the community to which he belonged.

Williams is interested in working out the sort of argument which would show that a man who practices color discrimination is not acting from a moral point of view. It is not a matter of getting him to change his moral view as much as it is a matter of pointing out that the reasons he offers for doing what he does are without moral content, are not moral reasons at all. Men who systematically neglect the claims of some group of men which arise from certain characteristics they possess and, notably, certain capacities they share, for instance "the capacity to feel pain, both from immediate physical causes and from various situations represented in perception and thought, and the capacity to feel affection for others and the consequences of this, connected with the frustration of this affection, loss of its objects, etc., [are not] operating with a special moral principle"[11] but are *overlooking* these characteristics and capacities.

Here, in the outline of this argument, we can see how the notion of relevance gets used. Williams wants to locate the moral in the kinds of reasons a person offers for treating others in certain ways. Reasons can be rationally cited as grounds for treating someone in a certain way if those reasons mention characteristics of the person which are relevant to that kind of treatment and certain facts about a person are relevant to his being treated in a way we would call "moral."

Although it is fairly generally recognized that human beings have the capacity to feel pain and to suffer, it is just not true, for the most part, that someone, say, who tortures a group of men is treating them, as Williams seems to believe, "as though they did not possess these characteristics"; nor is he *overlooking* and *disregarding* these characteristics. On the contrary, someone who tortures others is, more often than not, quite well aware of the fact that they have the capacity to feel pain. Indeed his awareness of this fact of human nature contributes to his desire to torture them. If we accuse the torturer of acting irrationally, of overlooking characteristics in the human beings he tortures which he acknowledges in those human beings whom he does not, we accuse him falsely, since—on at least our ordinary understanding of what it is to act rationally—the torturer is acting quite rationally, choosing the appropriate means to achieve his ends. By accusing him of acting irrationally, *we* overlook the extent to which he is acting maliciously and cruelly. The cruel man does not *overlook* the capacities of human beings to feel pain, to suffer: he positively embraces them.

Perhaps it makes sense to talk of relevant reasons in those cases where there exists a standard practice, a way of doing things, with an end or ends which are commonly accepted as the end or ends of the particular practice. To use an example of Robert Nozick's, a man who calls himself a barber acts from considerations of a certain sort.[12] Certain characteristics of persons who come to him will be relevant to his acting towards them *as a barber*. A barber who gives someone a haircut because someone gives him money or because he wants a chance to talk to that person is acting from considerations of an irrelevant sort. All of this presupposes that we share some idea of barbering and that there exists some general agreement about what the point of barbering is. This is equally true of the question of relevance in moral reasons. If I say that someone's reasons are not relevant to his treating someone else from a moral point of view, there must already exist prior agreement about what it is to act from a moral point of view. For a man to accept that he is overlooking certain characteristics and capacities of a person which are relevant to that person's being treated in a moral sort of way, he must first share our conception of morality. So to show him that his reasons are irrelevant it may first be necessary to get him to agree about what it is to be moral. The question of relevance in moral reasons can only arise when there is a commonly shared sense of morality. Many moral disputes are not disputes over what is relevant to acting morally, but over what it is to act morally. These disputes are not settled by an appeal to definitions and the truths of logic. Indeed, it is hard not to characterize disputes over what morality can and cannot be as disputes which themselves are a further kind of evaluative dispute.

II

Like a relevant reason for treating someone in a certain way, a relevant reason for distributing a good or service to someone will mention some characteristic he possesses which is relevant to the kind of good or service to be distributed. Which characteristics of a person are relevant to his receiving a certain good can be determined fairly straightforwardly so long as we can agree about what is rational to want in a good of that kind. So, to return to the example of barbering, since it is rational to want in a barber that he be able to cut hair, a relevant reason for a barber to distribute his service is the need (however this difficult concept is defined) a person has for a haircut. A relevant reason to distribute a job to operate a lathe to someone is that person's ability to operate a lathe, since it is reasonably clear what is involved in operating a lathe and what it takes to operate one. An employer who decides to take a white rather than an equally qualified black applicant because he would prefer to have a white man operate one of his lathes is taking a characteristic of one of the applicants into account which is not relevant to the question of whether he can operate a lathe or not. So much would appear to be obvious.

But it is not always quite so obvious what the reasons for regarding something as a good of a certain kind are. Which characteristics are relevant for admission to the university will depend on our view of higher education and what purposes we believe higher education ought to serve. Women were not denied the right to vote simply because certain characteristics which they possessed were *overlooked.* There was a time when most women, quite straightforwardly, failed to possess those qualities which could rationally be cited as grounds for their receiving the vote. They did not own property. Before women were able to receive the vote on relevant grounds, the particular concept of the vote as a right which adhered to the ownership of property had to change. The history of women's suffrage partially reflects this: in some countries widows with property were the first women to be granted the right to vote. The broadening of franchise to include all women simply cannot be accounted for by the idea of equality which the notion of relevance is intended to illuminate.

Disagreements about the purpose a good is designed to serve are usually disagreements about the nature of the good itself. With some goods it is a fairly straightforward matter to say what is rational to want in a good of its kind. With other goods it is not such a straightforward matter. It depends on the good. From this we might conclude that our acceptance or rejection of Williams' claim that "the proper ground [the relevant reason] for the distribution of health care is ill health" will depend on our being able to agree about the kind of good that health care is. Here, the question of relevant reasons has a reasonably precise sense because we have a reasonably precise idea of what health care is and what it is designed to do—unlike our ideas of education and voting. People who fall ill have a common interest in the health care they receive: they want their health restored. And Williams believes the only "relevant" criterion for distributing health care is ill health. This, of course may mean no more than that ill health is a necessary condition for receiving medical treatment, but Williams, clearly, wants to say more than this:

> Now in very many societies, while ill health may work as a necessary condition of receiving treatment, it does not work as a sufficient condition, since such treatment costs money, and not all who are ill have the money; hence the possession of sufficient money becomes in fact an additional necessary condition of actually receiving treatment . . . . When we have the situation in which, for instance, wealth is a further necessary condition of the receipt of medical treatment, we can once more apply the notions of equality and inequality; not now in the connections between the well and the ill, but in connection with the inequality between the rich ill and the poor ill, since we have straightforwardly the situation of those whose needs are the same not receiving the same treatment, though the needs are the ground of the treatment. This is an irrational state of affairs.[13]

Williams wants to claim that ill health is not only a necessary condition for receiving medical treatment, but that it is also a sufficient condition. As he says, "the needs are *the* ground of the treatment." Even if we accept that ill health is the only *relevant* criterion for receiving medical

treatment, why ought the relevant criterion be *the* consideration of distribution to the exclusion of all other considerations? Although "other" considerations can and often do play an important role in our decision to distribute medical care, Williams seems to want to rule them out *a priori*. Here, for example, are some "other" considerations besides illness which might be taken into account when distributing health care and which Williams' formula appears to preclude:

1. *The availability of the care.* Certain forms of medical treatment may be unavailable for a number of reasons. Treatment for an illness may not be available because a cure has not yet been found or because the supply of a particular drug has run out. Whatever the reason for the unavailability of the care, the fact that it is not available is a consideration for not distributing it.

2. *The cost of the care.* A social decision may be made to distribute health care only to those with non-major illnesses and to spend up to but no more than $50,000 in any given instance trying to effect a cure.

3. *The existence of a prior agreement between doctor and patient.* A clinic may be set up to service only a particular community. A university health service, for instance, distributes care only to members of the university community.

4. *Social benefit.* When health resources are scarce, a decision to distribute the care may be based on an evaluation of how much an individual is "worth" to the community; or a decision might be made not to care for persons who fall ill after a certain age.

5. *The patient's ability to pay.* A patient is rarely refused treatment on this ground alone. Doctors will normally charge their patients on the basis of a "sliding scale," adjusting their fees to suit the income of their patients. However, it is still true that the quality and the quantity of the care do vary with the income of the patient. In psychotherapy the willingness to pay has a particular significance: it is generally regarded as part of the cure. It's a willingness which reflects the patient's willingness to admit that he is "not well" and to take responsibility for his own cure.

6. *The desires of the doctor.* A doctor may not want to treat certain people. He is going "off duty" or wishes to retire. Here, it might be a consideration that a person who develops a particular skill at his own expense and on his own initiative ought to be given the opportunity to decide when to exercise that skill. A doctor's religious beliefs might also be a consideration. He might refuse to perform certain operations on religious grounds, such as an abortion.

7. *The desires of the patient.* The patients's religious beliefs may also play a significant role in a decision whether to treat him or not, even if he

is seriously ill and "requires" treatment. A Christian Scientist who is "in need" of a blood transfusion may request that he not be treated and he may die (if it comes to that).

Now there may be good reasons for not allowing some of these considerations to play too important a role in our decision to distribute health care, but if there are reasons, we would like some further argument. Williams gives no further argument. Wealth is not to be an additional necessary condition for receiving medical treatment because wealth is not *the* relevant reason for distributing medical treatment. No further argument is necessary because "it is," according to Williams, "a matter of logic that particular sorts of needs constitute a reason for receiving particular sorts of good."[14] Leaving aside the difficulty of interpreting "needs" in anything but a controversial way, whether "it is a matter of logic" will depend solely on the descriptions under which we distribute the goods. It is not a matter of logic that the need to be treated for syphilis constitutes a reason for receiving penicillin; although it may be a matter of logic that the need to be treated for syphilis constitutes a reason for being treated for syphilis.

For Williams it is a matter of logic that wealth cannot be an additional necessary condition for receiving medical treatment, since ill health is the ground of the treatment and it is a matter of logic that ill health constitutes a reason for receiving the treatment. The argument is not that it is *wrong* to require the sick to pay for their treatment, or that it is *unjust*. A doctor who refuses to treat someone who is sick because he cannot pay for the treatment is committing some kind of logical error.

Williams makes no further argument for his assertion that "needs are *the* ground of treatment" because he thinks there is some sort of logical connection between what a good is and a principle for its distribution. He accurately conceives the sort of good health care is and the sort of purpose it is designed to serve: to restore sick people to health. He totally misconceives the sort of problem the distribution of health care presents. He is right to think that "there is only a limited number of reasons for which [health care] could be regarded as a good":[15] but he is wrong to think that "to the limitations on this question, there *correspond* limitations on the sort of personal characteristics which could rationally be cited as grounds of access to this good."[16] Presumably, Williams thinks there is a "correspondence" because he thinks health care ought to do what it is designed to do. Prior to our actually setting up a system of health care delivery, Williams wants to show what sorts of consideration we would have to take into account in our decisions to distribute health care which any system of health care would have to take into account to be called "a system of health care delivery" at all. His mistake is to think that a distributive principle for a good can be derived from an analysis of what it is rational to want in a good of its kind. Torture instruments are designed for a particular purpose, but we

do not distribute torture instruments to persons who want to torture their enemies; we distribute them to museums.[17]

Why ought a doctor take only the fact that a person is sick into account in his decision to treat him? Why not discriminate among his patients on the basis of wealth? Williams seems to want to answer by arguing that a doctor should not discriminate among his patients on the basis of wealth because wealth is not relevant to the sort of thing that doctors do. For him, it is some kind of requirement of rationality. Not only is the argument a bad argument; it stands in the way of our seeing what actually is wrong about a health care system which allocates health care on the basis of wealth. To make this point clearer consider a situation where two persons present themselves to a doctor: one is seeking treatment for some minor ailment, say, a sore throat; the other is seriously injured; he has lost a great quantity of blood, and is losing more. The man with the minor ailment offers the doctor money to treat him first. The other has no money to offer. The doctor ignores the offer and treats the man who is seriously injured first. Why? To understand the doctor's reasons for acting is to understand why there are medical "ethics."

On an ideal picture of the market a good goes to the highest price it can get. Here the highest bidder is unable to buy; and so we have a situation where a good is being distributed on principles other than market principles. It seems fairly obvious that the service is not being distributed on the basis of some principle of rationality, or in accordance with some "relevant reason." In either case the doctor would be performing his function as a *doctor*. It would be much more accurate to say that the service is being distributed, in this situation, on the basis of some principle of right. We would be much more inclined to say of a doctor who acted in this way that he was right or that he "did the right thing," and to say of a doctor who chose to take money and treat the minor ailment first that he was wrong or that he "did the wrong thing," than to say that his reasons for acting were relevant or irrelevant. Here, to speak of what is rational for the doctor to do is to avoid the question of what is right.

III

A person who falls sick, depending on the severity of his illness, is often helpless. There is nothing or very little he can do about his physical condition. He cannot simply "pull himself together" or get well "on his own." In this sense, he comes to rely on the help of others, and "these others" usually include a doctor.[18] The patient rarely knows what needs to be done; he is unable to prescribe his own treatment. Very often he does not even know what is wrong with him, although he does know that he does not feel well. Generally, the doctor is in a position to say what is wrong and to know what to do. The patient himself is rarely qualified to judge the utility of the treatment which is prescribed for

him. This is not true in a typical "exchange" relation. It is true that "there is always an inequality," as Kenneth Arrow has written, "of information as to production methods between the producer and the purchaser of any commodity, but in most cases the customer may have as good or nearly as good an understanding of the utility of the product as the producer."[19] Thus, a customer will "know" the utility of a car to get him to and from work. The patient wants to be healthy again, but he does not "know" what treatment can restore his health. In this sense the patient is "in the doctor's hands." Also, a patient who is severely ill is often under a very great emotional strain. He is humiliated by his inability to function normally, to be the good parent or the good worker he was. He may have to face permanent disability. In such a situation the health care he receives matters enormously to him. It may even be a matter of life and death.

It is reasons such as these that make it seem particularly inappropriate to allow the profit motive to play too significant a role in a doctor's decision to treat patients. In this respect the doctor is no "ordinary" businessman and his patient, no "ordinary" customer. The combination of the helplessness of the sick person, his incapacity to judge what is in "his own best interests," and his emotional state make him, as Talcott Parsons has pointed out, "a peculiarly vulnerable object for exploitation."[20] The fact that we find the exploitation of the helpless sick so "repellent" is not explained by the relevant reasons for receiving health care. The relevant reason for receiving the services of a barber is the need for a haircut, and yet we do not find it repellent to think of barbering as "a good business," in the way, in quite the same way, we find it repellent to listen to a doctor speak of his practice as "a good business." Why has the barbering profession not developed a code of "ethics"? A notion of relevance cannot explain these differences.

Why has the medical profession in our society adopted certain practices which cut the doctor off from many options which are generally and quite legitimately open to the ordinary businessman (barbers included)? Doctors do not advertise; there is no overt price competition among doctors. Doctors do not bargain over fees with their patients. They do not withhold their service from patients (customers) who are bad credit risks. Doctors will often charge on the basis of a "sliding scale," adjusting their fees to suit the income of their patients. R. A. Kessel has argued that price discrimination (the "sliding scale") in the medical profession is "designed to maximize profits along the classic lines of discriminating monopoly,"[21] but, as Kenneth Arrow has pointed out, that "price discrimination is not completely profit-maximizing is obvious in the extreme case of charity."[22] Kessel believes charity treatment by doctors represents "an appeasement of public opinion."[23] But this, of course, leaves "public opinion" unexplained, to be explained in nonmarket terms. It would appear to be that the public opinion is the commonly shared belief of members of our society that health care is too important to the sick person to allow market principles to operate freely in its

distribution, and that some of the standard justifications for the operation of the market do not hold in the case of a sick person who desires treatment for his illness.

There is no sense in Williams' account of the importance of health care. For him, discrimination among patients on the basis of wealth is irrelevant to the kind of good which health care is; and, for him, there's an end to it. To exclude people from the good of health care on the grounds of wealth would be an *a priori* exclusion. And, I imagine, to exclude people from receiving a mink coat or a yacht on the Mediterranean on grounds of wealth is also an *a priori* exclusion. What does the ability to pay have to do with mink coats and yachts? Is the fact that there are people who want a yacht on the Mediterranean and a mink coat but who are not able to afford either an irrational state of affairs? Perhaps, Williams means to argue but does not argue very clearly that relevant reasons ought to operate only in our decisions to distribute goods and services which are important. Even here, it seems to me, we may be interested in the particular good for reasons other than the reasons for which it is regarded *as a good*, for reasons other than the reasons which are *relevant* to the kind of good it is. We may, quite legitimately, believe that these "other" reasons override the relevant reasons for distributing the good: that is, the relevant reasons for receiving the good may not even be a *necessary* condition of its distribution. To take a recent example, the fair employment laws have often done no more than prohibit employers from making their employment decisions on the basis of race or color, but there is a growing recognition that in some cases it is right to take race or color into consideration. If we believe that the relevant reason for allocating jobs is merit, that is, how well a person can perform on the job, and that merit in this sense is the *only* permissible criterion for allocating jobs, one goal of fair employment which is beginning to emerge is overlooked. We may decide that our aim is not just equal consideration for blacks and whites, but equal achievement as well, that is, we may decide that "jobs should be distributed so that the relative economic position of blacks—as a class—is improved, so that the economic position of blacks is approximately equal to that of whites."[24] Because of a legacy of slavery and discrimination, for example, "the fact that for blacks the starting position in the labor market was in the South and in agriculture,"[25] blacks may not be able to compete successfully with whites on the basis of the relevant criteria for jobs. Here, our decision might be that jobs are too important, matter too much to people, for their allocation to depend solely on merit. Our view of the fair employment laws becomes a view of a law which is conscious of color, not color-blind. The idea of relevant reasons does not help us to understand this emerging sense of obligation imposed by the fair employment laws. It also becomes unclear what it means to rule out, *a priori*, considerations of a certain sort in the context of an employment decision. In the distribution of most goods we have ruled out discrimination, on the basis of race or color, but the prohibi-

tion of discrimination, "has different contours as it applies in different areas of human activity."[26] This has become most apparent in recent efforts to square the Equal Protection Clause of the Fourteenth Amendment with the affirmative action programs adopted by the admissions committees of various professional schools.

IV

Talking about relevant reasons is a bit of a sleight of hand: it distracts us from the real problems which the distribution of health care presents and tries to make a complicated issue disappear. Replacing a market system of health care delivery with some form of national health care is "no small" step for a society to take. It is a matter, however, about which a society takes some *decision*. If the needs of the sick are *the* ground for the distribution of health care, it is not at all clear that any of the interesting questions about the distribution of health care can be settled solely by reference to needs exclusively, for example: Who makes the decisions about who gets what resources? What share of the national income budget should go to health care? Do we concentrate more funds on accident cases or care for the aged? How will the medical profession be regulated and to what extent? Will doctors be allowed to continue in private practice, if they choose? Will the drug industry be allowed to continue to operate "on" the market? And so on. These are the sorts of questions which immediately come to mind when a discussion turns to state provision of health care. But the relevant reason for the distribution of health care, the needs of the sick, can scarcely be invoked to provide answers to these questions.

The "market" method for distributing health care can be defended; but if it is, reasonable men will defend it on its merits, and where it cannot be defended, they will be open to reforming or replacing it. The present health care market is imperfect. Usually, it is the government which will substitute, in a given instance, for the market's failure; but in some instances, the social institution itself will develop nonmarket means (for example, the "sliding scale") to overcome the imperfections of its own market. These correctives often lead to other, sometimes greater, imperfections. The practice of licensing, for instance, may have been originally adopted to give the patient some assurance about the quality of the care he was likely to get, to correct for his inability to judge the utility of the "product." But licensing, in its turn, restricts entry into the field and leads to less competition and higher prices. Still the free operation of the health care market is affected more than anything else by the widespread belief that adequate care matters too much to the sick person for the receipt of treatment to depend on his ability to pay. It is a belief which is hard not to characterize as a moral belief. We believe that it is wrong (not that he is failing to perform his function) if a doctor refuses to treat a patient because he has no money. Our belief is reflected in the present structure of medical practice: in the

pricing practices of doctors, in charity treatment by doctors, and in the "predominance of non-profit over proprietary hospitals."[27] Thus, many of the constraints on the free operation of the health care market turn out to be moral constraints. The "sliding scale," for example, reflects the "felt" inappropriateness of the profit motive in the supply of health care. In its turn, it leads to further imperfections in the health care market, since it is a form of price fixing which transcends market pressures. The government's *decision* not to subject the health care industry to anti-trust action is, in part, an admission that health care ought to be made more generally available.

On Williams' argument the reason we should not take the wealth of the patient into account in our decision to distribute health care is that "the possession of the characteristic," ill health, is a sufficient condition for its distribution. It is sufficient because it is *the relevant reason* for receiving health care. I have tried to show that relevant reasons are not (and ought not to be) a sufficient consideration for the distribution of anything, and that they are, sometimes, not a necessary consideration either. Accordingly, we might conclude, if ill health is not a sufficient condition for the distribution of health care, then there is no reason not to distribute health care on the basis of wealth, to make wealth "an additional necessary condition" for the receipt of health care. This, however, would be incorrect. Rather we should conclude that Williams' argument is not the sort of argument to be made. Thus, I have tried to show that there *are* reasons, good reasons, for not distributing health care on the basis of "market" criteria. But these reasons are *debatable*. They are not given *a priori*.

For a society to decide to replace a "market" method of health care distribution with some form of national health care is likely to involve a decision to make a different way of life possible. It is not an easy decision. It is by no means a matter of logic.

The racist who says that it is his moral belief that blacks are inferior to whites and ought to be treated differently is not likely to respond to criticism that he is misusing the word "moral" or that he needs a lesson in logic. Whatever his response, such criticism is no substitute for the criticism that his treatment of blacks is wrong and unjust. It has been pointed out before that criticizing a view or a position for being irrational often has the effect of freeing oneself from the burden of having to say what is wrong with it.[28] Williams' concept of relevance is an *a priori* concept which presupposes some sort of *a priori* criterion for deciding whether certain kinds of treatment are moral and whether certain methods of distribution are rational. The notion of relevant reasons stands in the way of our seeing what actually is wrong about a health care system which allocates health care solely on the basis of income.

NOTES

[1] George Bernard Shaw, *The Doctor's Dilemma*, Preface.

[2] Bernard Williams, "The Idea of Equality," in *Philosophy, Politics, and Society*, edited

by Peter Laslett and W. G. Runciman (Oxford: Basil Blackwell, 1962), p. 121.

[3] *Ibid.*, p. 123.

[4] W. T. Blackstone, "On the Meaning and Justification of the Equality Principle," in *The Concept of Equality*, edited by Blackstone (Minneapolis: The Burgess Publishing Co., 1969), p. 117.

[5] J. R. Lucas, "Against Equality," in *Justice and Equality*, edited by Hugo Bedau (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1971), p. 144.

[6] Bernard Williams, "The Idea of Equality," p. 113.

[7] *Ibid.*

[8] *Ibid.*

[9] *Ibid.*

[10] *Ibid.*

[11] *Ibid.*

[12] Robert Nozick, *Anarchy, State, and Utopia*, (New York: Basic Books, Inc., 1974), p. 234.

[13] Bernard Williams, "The Idea of Equality," p. 121-2.

[14] *Ibid.*, p. 123.

[15] *Ibid.*, p. 124.

[16] *Ibid.*

[17] The example was suggested to me by Jerrold Katz.

[18] The argument here is based, in part, on Talcott Parson's study of the medical profession, particularly Chapter X of his *The Social System* (Glencoe, Illinois: The Free Press, 1951).

[19] Kenneth Arrow, "Uncertainty and the Welfare Economics of Medical Care," *The American Economic Review*, Vol. LIII, No. 5, December 1963, p. 955.

[20] Talcott Parsons, *The Social System*, p. 445.

[21] R. A. Kessel, "Price Discrimination in Medicine," *Journal of Law and Economics*, Vol. I, 1958, p. 36.

[22] Kenneth Arrow, "Uncertainty and the Welfare Economics of Medical Care," p. 956.

[23] R. A. Kessel, "Price Discrimination in Medicine," p. 36.

[24] Owen M. Fiss, "A Theory of Fair Employment Laws," *The University of Chicago Law Review*, Vol. 38, No. 2, Winter, 1971, p. 242.

[25] *Ibid.*, p. 243.

[26] *Ibid.*, p. 250.

[27] Kenneth Arrow, "Uncertainty and the Welfare Economics of Medical Care," p. 956.

[28] Peter Winch makes this same point only vis-a-vis Kant's view of morality in his inaugural lecture, "Moral Integrity," reprinted in *Ethics and Action* (London: Routledge and Kegan Paul, 1972), pp. 171-192.