Norman Daniels. Just Health: Meeting Health Needs Fairly. Introduction, Chapters 1-3

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Introduction

- goals of the book:
  - present an integrated theory of justice and population health
  - address theoretical and real-world challenges to this theory
  - demonstrate that this theory can guide practice with regard to health
- theory of justice and health must
  - tell us what we owe each other in the protection and promotion of health
  - explain moral importance we place on health
  - tell us when differences in health are unjust
  - guide meeting health needs fairly when not all needs can be met

Chapter 1: Three Questions of Justice

A Fundamental Question of Justice

- "Fundamental Question": what do we owe each other to promote and protect health in a population and to assist people when they are ill or disabled?
- to answer the Fundamental Question, look at three more specific "Focal Questions":
  - is health, and therefore health care and other factors that affect health, of special moral importance?
  - when are health inequalities unjust?
  - how can we meet health needs fairly under resource constraints?

Scope of the Fundamental Question

- need to go beyond just medical care and treatments
- healthcare = medical services + public health measures
- but other things have a large impact on health too: e.g., education, housing, jobs, income, wealth, opportunity, political participation, sense of community
- inequality in these factors produce health inequalities
- the Fundamental Questions ask about "socially controllable factors": medical care, broader forms of health care, public health measures, and the distribution of non-health goods
- disagree with Rawls that health is a natural (as opposed to social) good because of the many social factors that influence health
- bad health is not just bad luck, it's influenced by social determinants
- but even if it was just bad luck, we might owe each other something to improve the situation
- the Fundamental Question is also concerned with overall levels of health in the population, not just inequalities
- because health is an important capability, it needs to be promoted at the level of the society; if we fail to provide it, we fail an obligation to each other, which is unjust

Where Not to Begin

- it is problematic to start from a rights perspective (the idea that there is an individual or human right to health or healthcare)
  - does not solve disagreements and uncertainties about the scope and limits of such rights
  - does not tell us what entitlements follow from these rights claims
  - we do not understand what beliefs and theories justify rights claims
  - practically, rights do not tell us what we owe each other
- instead of starting from rights, we need a systematic theory of distributive justice for health-related needs
- we could also start by applying general theories of justice to health and health care,
  - but we need to first understand what kind of a good health is
  - are health care services like other "commodities"?
- we need to systematically understand what kind of a good health is and therefore what importance should be given to it

Is Health of Special Moral Importance?

- the moral importance of factors affecting health is derived from the moral importance of health
- people who tolerate vast inequalities in wealth and power are often morally outraged by inequalities in health
- societies also treat health differently from other goods because they organize large social insurance programs
- in some contexts (private insurance, copayment for cost containment) health is treated similarly to other commodities
- health is of special moral importance because we need to protect people's functioning and opportunities

When Are Health Inequalities Unjust?

- every country has inequality in health across social groups
- some of these we don't know how to avoid or modify
- some of the inequalities are related to social policies that distribute education, income, and wealth

- the question is when these inequalities are unjust
- to answer the question we need a broader theory about the distribution of goods that influence health
- Rawls's theory of justice as fairness captures the distribution of these goods
- justice as fairness is good for health

How Can We Meet Health Needs Fairly under Resource Limits?

- we don't know how to meet conflicting health needs fairly when we cannot meet them all
- proposed answer: fair deliberative process to reduce disagreements about resource allocation
- appeal to procedural justice
- some specific conditions: publicity of rationales, search for relevant reasons, opportunity to revise decisions in light of new evidence and arguments

A Population View of Justice and Health

- the special moral importance of health derives from its impact on our opportunities
- health inequality is unjust when it derives from an unjust distribution of the socially controllable factors affecting population health and its distribution
- we must supplement guidance from general principles with a fair deliberative process
- thus the three focal questions and answers address central issues involved in justice and population health

Chapter 2: What Is the Special Moral Importance of Health?

- people generally accept social and economic inequalities but are outraged if they interfere with healthcare needs
- central argument:
    1. Since meeting health needs promotes health (or normal functioning), and since health helps to protect opportunity, then meeting health needs protects opportunity.
    2. Since Rawls's justice as fairness requires protecting opportunity, as do other important approaches to distributive justice, then several recent accounts of justice give special importance to meeting health needs.

Needs

- needs and preferences are not equivalent
- another proposal would be to substitute preferences under reasonable income shares for needs but this does not work because reasonable income shares are themselves dependent on our definition of needs
- there is no sense to the notion of a "reasonable" healthcare insurance package because it depends on resources, needs, and preferences
- meeting needs required for normal functioning are important because people have a fundamental interest in maintaining a normal range of opportunities

Health

- health is more than the absence of disease
- health is the absence of pathology
- health needs are things we need to maintain normal species functioning
- these are ascribable through scientific procedures
- this is a necessary conceptual narrowness (compare to broad WHO definition of health as complete physical, mental, and social well-being)
- objective, even if there have been historical mistakes in classification
- pathology is not the same as unwanted conditions

Health Needs, Normal Functioning, and Opportunity

- health needs are a broad, diverse set:
  - adequate nutrition
  - sanitary, safe, unpolluted living and working conditions
  - exercise, rest, and such important lifestyle features as avoiding substance abuse and practicing safe sex
  - preventive curative, rehabilitative, and compensatory personal medical services (and devices)
  - nonmedical personal and social support services
  - an appropriate distribution of other social determinants of health
- these are objectively ascribable
- normal opportunity range: for a given society, the array of life plans reasonable persons are likely to develop for themselves
- the normal range depends on key features of the society: historical development, material wealth, technological development, cultural facts
- the normal opportunity range is socially relative
- special importance of meeting health needs: the weight we attach to protecting our shares of the normal opportunity range against departures from normal functioning
- the impairment of normal functioning restricts individuals opportunity relative to the normal range that their skills and talents would have made available to them were they healthy
- normal opportunity range abstracts from individual differences in "effective opportunity"
- health needs are paradigmatic among basic needs that we need to maintain normal functioning
- protecting normal functioning helps to protect the range of opportunities

Fair Equality of Opportunity and Health: Extending Rawls's Theory

- Rawls's original theory is based on contractors who are fully functional over the normal lifespan
- Rawls's account of justice applies to idealized people who are never ill or disabled and who live full lives

- we want to relax this assumption and extend Rawls's theory; this greatly increases the power of the theory and arguably adds to its plausibility
- claim: *if* Rawls's theory is correct, then with the extension presented here it provides one plausible justificatory framework for relying on an objective scale of well-being that includes health needs and for our having an obligation of justice to protect opportunity (and therefore health)
- want to show that nonwelfarist account of health needs and their relation to opportunity can be integrated into Rawls's index of primary social goods
- one possibility would be to add health to Rawls's list of primary social goods, but if we added everything that people deem important the list would become long and not necessarily acceptable to all reasonable people
- more plausible and simpler way to connect health needs with the Rawlsian index: include healthcare institutions among the basic institutions involved in providing for fair equality of opportunity
- Rawls suggests that we need to use resources to counter the opportunity advantages that some get in the social lottery, we now also need to use resources to counter disadvantages induced by pathology
- we should not understand this as the elimination of all differences
- important features of justice as fairness preserved:
  - healthcare is like public education in that they address special needs in order to provide fair equality of opportunity
  - we still have veil of ignorance but it must be "thinner" to know about features of the society like resource limitations
  - placing healthcare institutions under the opportunity principle keeps with Rawls's original principle in that we want to focus on normal, fully functioning persons with a complete lifespan

Other Theories of Justice, Opportunity, and Health

- Rawls's theory of justice as fairness is the most fully developed general theory justice that provides arguments for our obligation to protect fair equality of opportunity
- later theorists are critical of some aspects of Rawls's theory but they also ascribe moral importance to protecting opportunity, and therefore strengthen the case presented here
- Alternative 1: capabilities approach (Sen and later Nussbaum)

  - argue that Rawls focuses on the wrong "space" when he takes the "target" of justice to be the distribution of primary social goods
  - the proper target of justice is the space of capabilities
  - meeting health needs for normal functioning is as crucial to sustaining capabilities as it is to protecting a fair share of the opportunity range

- Alternative 2: equal opportunity for welfare or advantage (Arneson and G. A. Cohen)

  - argue that Rawls supports the wrong principles of justice
  - combination of fair equality of opportunity and the difference principle fails to protect people from unjust disadvantage
  - justice requires that we compensate or assist people whenever they suffer a deficit in welfare or advantage through no fault or choice of their own
  - this still tells out that we have a social obligation to protect fair shares of the opportunity range

The Special Moral Importance of Health: Conclusion

- people attach special moral importance to health care and to meeting health needs
- first Focal Question: how can we justify doing so?
- observation: meeting these needs promotes normal functioning, and normal functioning, in turn, protects people's fair shares of the normal opportunity range
- justice gives us an obligation to protect the opportunity range under several views of justice

Chapter 3: When Are Health Inequalities Unjust? The Social Determinants of Health

- when is an inequality in health status between different socioeconomic/demographic groups unjust?
- claim: Rawls's theory provides a defensible account of how to distribute the social determinants of health fairly and thus tells us something useful about when health inequalities are unjust
- social justice in general is good for population health and its fair distribution
- remaining problem: residual health inequalities produced by otherwise justifiable inequalities

Social Determinants of Health: Some Basic Findings

- national income/health gradients are not the result of some fixed or determinate laws of economic development but are influenced by social policy choices
- within societies, the individual SES/health gradients are not just the result of the deprivation of the poorest groups, the gradient in health operates across the whole socioeconomic spectrum
- social inequality contributes to the gradients but it is less clear whether the steepness of the gradient is affected by income inequality
- there are some reasonable hypotheses identifying some social and psychosocial pathways through which inequality affects health
- these causal pathways can be changed by policy choices that should be guided by considerations of justice

An Intuitive Analysis of Health Inequities

- suggested answer to the second Focal Question: health inequalities count as inequities when they are avoidable, unnecessary, and unfair (Whitehead and Dahlgren)
- the Dahlgren-Whitehead account does not help with thinking about the broader issue of the social determinants of health inequalities
- socioeconomic inequalities that result in health inequalities might not be unjust

A Rawlsian Analysis of Health Inequities

- the goal of Rawls was to leverage a broad liberal agreement on principles guaranteeing certain equal basic liberties into an agreement on a principle limiting socioeconomic inequalities
- Rawls's strategy: show that a social contract designed to be fair to free and equal people would justify equal basic liberties + equal opportunity + limiting inequalities
- claim: Rawls's account was developed to answer more general question about social justice, it also provides principles for the just distribution of the social determinants of health
- Rawls's difference principle: inequalities are allowable as long as they make the worst off group fare better
- but Rawls is also concerned about relative inequality, insofar as it can undermine basic liberties or equality of opportunity
- claim: Rawls's difference principle flattens the SES gradient for health and makes everyone better off
- need to look at whole index of primary goods not just income (e.g., what if inequality makes the poorest earn more but makes their health worse)
- the effects of health inequalities are included in the index of primary goods through the inclusion of opportunities
- Rawls does not tell us how to weight the goods in the index
- Rawlsian justice flattens the SES gradients but there still remains the question whether residual inequalities are unjust
- we should not further reduce these inequalities if doing so reduces productivity and we cannot support the institutions that promote health
- theoretical question: could Rawlsian contractors trade off health inequality and nonhealth benefits?
- possible answers:
  - people do this a lot in real life
  - but Rawlsian contractors don't know their personal valuations
  - they instead refer to the index of primary social goods
  - but we don't know what weight to assign to different goods in the index
  - we may think that health should not be traded off against other goods because it's so basic to opportunities

  - but maybe it's not so clear when we are talking about risk to health rather than health
  - pragmatic answer: use deliberative process at the level of society to answer the question

A Brief Remark on Method

- extension of Rawlsian theory drops idealizing assumption and hence extends the theory's power
- the extended theory informs practical deliberation about institutional design
- connecting recent empirical work on the social determinants of health further extends theory's power
- but this might be more than an extension of the scope of Rawls's theory: because the empirical theory can explain new phenomena (health) that were not part of its evidentiary base
- so the concepts in the original theory might be "projectible"
- there might be political disagreements about components of well-being but they empirically connect to the health of the population
- one view: if the facts about the SES gradient and the social determinants of health were different, it would not matter for the theory, so just because the facts are the way they are also doesn't give additional support for the theory
- another view: empirical facts leading to projectibility strengthen the theory