

services for that purpose. CONCLUSION ranked according to their cost-effectiveness, but that cost differences that are due to moral I have argued in this thesis that the principles which are impartially justifiable in the distribution of health care services seem to disallow the trade-off of an individual's moral agency through loss of a minimum set of capabilities for aggregate gains of capabilities beyond the minimum, the welfare of all members of society, or that of certain subgroups in society, including the socio-economically worst-off. I derived what is impartially justifiable or not from an interpretation of Kant's ethics for justice in health care. These moral obligations derived hold in particular for premature death and disability prevention which are the most frequent cause of early loss of moral agency. A just society should establish impartially acceptable principles of how the obligations for these central functions of health care are met. These principles should be set independent from trade-offs with more peripheral functions of health care or other welfare goals. I suggested that we should determine a budget which cannot reasonably be rejected by those threatened by premature death or disability.

For This total budget should be spent on insurance for both preventive and curative health care services which effectively avoid loss of moral agency. I argued that the



services for that purpose should be ranked according to their cost-effectiveness, but that cost differences that are due to morally objectionable causes such as discriminatory research efforts of the government in the past should be discounted.

proposal to discount the moral value of saving a life of lower What a reasonable budget is depends partly on empirical facts such as the economic means of a society, the costs of health care services, and the proportion of people threatened by premature death and loss of moral agency. It seems ethically required that in a society with a higher average level of income we should be under an obligation to sacrifice a greater part of our income to prevent premature death and loss of moral agency than in a society with, on average, a lower level of income. In particular, the budget for the central functions of health care should be set at the highest level that is feasible in order to still allow the socio-economically worst-off group to pursue the characteristic life-plans of a society.

appears to be to some degree independent of the prudential value I further argued that in cost-effectiveness analysis the benefits should not include a discounting measure for the lower quality of life when my proposal is applied for determining whose life or basic capabilities we should save. For measuring other benefits, such as the benefits of non life-saving programs or life-saving programs at ages well beyond the adequate life-expectancy, such discounting



measures may indeed be justifiable.<sup>64</sup> It may be possible to argue that an impartially justifiable set of principles would suggest or even mandate the inclusion of information about quality-of-life on that level of health care. I rejected the proposal to discount the moral value of saving a life of lower quality from premature death or loss of moral agency because the reason why such lives should be saved is independent of their quality and should in its strength, therefore, also not vary with it. We should save such lives because of our commitment to human dignity itself which is sustained by our moral agency, at every level of it.

We have to distinguish between the moral and the prudential value of saving lives. I have argued that the moral value of saving lives from premature death and the loss of moral agency cannot convincingly be derived from what lives we would prudently want to save. The moral value of saving lives from premature death and loss of moral agency appears to be to some degree independent of the prudential value of saving such lives. We value our lives for reasons that go beyond the fact that we are moral agents, which may not give some of us much of a reason to value life at all. But the lives of others we should help to protect from premature death or loss of moral agency we should value for that reason.

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<sup>64</sup> Brock (1992), (1993)



If, instead of following my proposal, we ranked health care services for premature death and loss of moral agency prevention according to their willingness-to-pay value in society we might have a means to contribute to the maximization of human well-being in society. But such ranking should be rejected, since it is not impartially justifiable to use the health care which protects against premature death and the loss of moral agency for the purpose of societal aggregate well-being maximization. The respect of others as free and equal citizens puts constraints on what we can define as the morally central functions of health care in that respect. This is the most important consequence of a commitment to a broadly Kantian account of moral reasoning for justice in health care.

To assume that as a community we could define the goals of health care without such constraints is plausible from a communitarian or a utilitarian view of ethics and meta-ethics. Such a communitarian view was, for example, presented by Ezekiel Emanuel, who adopts a Hegelian critique of the kind of Kantian moral reasoning used in this essay.<sup>65</sup> His alternative proposal would allow relatively small communities to use their own values to define the role of health care for all possible functions of health care, including premature death and loss of moral agency prevention. I have tried to

<sup>65</sup> Emanuel (1991)



respond to a criticism of Kantian moral reasoning made by Emanuel and other communitarians.<sup>66</sup> They claim that there cannot be impartially accepted principles for the distribution of health care resources in the absence of shared ideals of the good. For the sake of furthering this discussion, I have tried to provide such a set of principles for what I believe are the ethically central functions of health care; still, there is an important point to the communitarian critique since I am less confident about the availability of such principles for less central functions of health care. This gives us reason not to speak about justice in health care as a single social good.

For the less central functions Dworkin's approach is, I think, the most promising, in which he considers health insurance as an important resource which everyone should be entitled to according to a fair distribution of income. If his approach is adopted for more peripheral health care functions, there can be trade-offs between health care and other social goods such as education or income, and these trade-offs can be determined partly by the ideals of the good that the majority of society accepts.<sup>67</sup>

<sup>66</sup> Williams (1985), Walzer (1983)

<sup>67</sup> Dworkin (1993), (1981)



universal principles of prudential reasoning, Dworkin's proposal may converge with communitarian proposals to distribute health care under the conditions of a fair income distribution. The disagreement between Dworkin and communitarians would then be about what constitutes a fair distribution of income. This kind of convergence also may be expected because what is prudential for someone to do depends on the ideal of the good she accepts. ~~and the influence from~~  
~~our accepted ideals of the good, and beyond collective self-~~  
~~interest.~~ Nevertheless, neither for reasons of prudence nor for the expression of community values should the state be permitted to sacrifice the most basic capabilities of moral agents, a point which neither communitarians like Emanuel nor equality-of-resource focussed liberals like Dworkin appear to be able to fully accommodate. It can even less be accommodated by utilitarian theories of just health care because in such theories moral agency is just one value among others and can be traded-off against other values in whatever way is dictated by aggregate total utility reasoning.

Communitarian and utilitarian theories of justice have for health care distribution similar problems as they face for the distribution of the basic liberties.<sup>68</sup> The health care which protects our moral agency against premature extinction should not be permitted to become part of either a

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<sup>68</sup> Lyons (1994)

communitarian or utilitarian distributional mechanism for (at least partly) the same reasons for which we should not allow the basic liberties to be included there. The problem is not that they might, depending on circumstances, not get their proper affirmation in such a mechanism, but that they are in such a mechanism in the first place.<sup>69</sup> The affirmation of the basic liberties, as well as the protection of moral agency, should be unconditional, beyond the influence from our accepted ideals of the good, and beyond collective self-interest.

BELLAN, R.N., MADSEN, P., SULLIVAN, W.H., SWINDLER, A., TIPTON, S.M. (1985). *Habits of the Heart*. Harper and Row.

BERLIN, I. (1969). *Four Essays on Liberty*. Oxford: Oxford University Press.

BOORSE, C. (1975). On the distinction between disease and illness. *Philosophy and Public Affairs*, 5:1:49-68.

BRENNAN, T.A. (1991). *Just Doctoring: Medical Ethics in the Liberal State*. Berkeley: University of California Press.

BRENNAN, T.A. (1991). An ethical perspective on health care insurance reform. *American Journal of Law & Medicine*. Boston: American Society of Law, Medicine & Ethics and Boston University School of Law, 13-74.

BRINK, D. (1989). *Moral Realism and the Foundations of Ethics*. Cambridge: Cambridge University Press.

BROCK, D. (1986). The value of prolonging human life. *Philosophical Studies*, 50:401-428.

BROCK, D. (1992). Quality of life measures in health care and medical ethics. In Muscarella and Sen (1992).

BROCK, D.W. (1993). *Life and Death: Philosophical Essays in Biomedical Ethics*. Cambridge: Cambridge University Press.



# REFERENCES

- BUCHANAN, A. (1983). *The decent minimum of health care.* In The President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research; AARON, H., and SCHWARTZ W. (1984). *The Painful Prescription.* Washington, DC: Brookings Institute.
- ANDREWS, L.B., FULLARTON, J.E., HOLTZMAN, N.A., and MOTULSKY, A.G. (eds.). (1994) *Assessing Genetic Risks: Implications for Health and Social Policy.* National Academy Press.
- ARROW, K. (1973). Some ordinalist--utilitarian notes on Rawls's theory of justice. *Journal of Philosophy*, 70:9:251.
- BARRY, B. (1989). *Theories of Justice.* Berkeley, CA: University of California Press.
- BARTECCHI, C.E., MACKENZIE, T.D., SCHRIER, R.W. (1994) The human costs of tobacco use. *New England Journal of Medicine*, 330:13:907-912.
- BELLAH, R.N. MADSEN, R., SULLIVAN, W.M., SWINDLER, A., TIPTON, S.M. (1985). *Habits of the Heart.* Harper and Row.
- BERLIN, I. (1969). *Four Essays on Liberty.* Oxford:Oxford University Press
- BOORSE, C. (1975). On the distinction between disease and illness. *Philosophy and Public Affairs*, 5:1:49-68.
- BRENNAN, T.A. (1991). *Just Doctoring: Medical Ethics in the Liberal State.* Berkeley: University of California Press.
- BRENNAN, T.A. (1993). An ethical perspective on health care insurance reform. *American Journal of Law & Medicine.* Boston: American Society of Law, Medicine & Ethics and Boston University School of Law, 37-74.
- BRINK, D. (1989). *Moral Realism and the Foundations of Ethics.* Cambridge: Cambridge University Press.
- BROCK, D. (1986). The value of prolonging human life. *Philosophical Studies*, 50:401-428.
- BROCK, D. (1992). Quality of life measures in health care and medical ethics. In Nussbaum and Sen (1992).
- BROCK, D.W. (1993). *Life and Death: Philosophical Essays in Biomedical Ethics.* Cambridge: Cambridge University Press.



BUCHANAN, A. (1983). The right to a decent minimum of health care. in The President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research; *Securing Access to Health Care*, vol. II, Appendices: Sociocultural and Philosophical Studies, 207-38. Washington, DC: US Government Printing Office.

CHURCHILL, L.R. (1987). *Rationing Health Care in America: Perceptions and Principles of Justice*. Notre Dame, IN: University of Notre Dame Press.

COHEN, G.A. (1992). Equality of what? On welfare, goods and capabilities. *Recherches économiques de Louvain*, 56.

DANIELS, N. (1975). Equal liberty and unequal worth and liberty, in N. Daniels (ed.), *Reading Rawls*, New York: Basic Books, 253-81.

DANIELS, N. (1975) (ed.) *Reading Rawls*. Oxford: Blackwell.

DANIELS, N. (1979). Wide Reflective Equilibrium and Theory Acceptance in Ethics. *Journal of Philosophy*, 76:5:256-82.

DANIELS, N. (1981). *No Smoking: The Ethical Issues*. Chicago: Chicago University Press.

DANIELS, N. (1985). *Just Health Care*. Cambridge: Cambridge University Press.

DANIELS, N. (1988). *Am I My Parents Keeper*. Oxford: Oxford University Press.

DOLL, R., R. PETO (1981). The causes of cancer. *J Natl Cancer Inst* 616:1191-1308.

DWORKIN, R. (1977). *Taking Rights Seriously*. London: Duckworth.

DWORKIN, R. (1981). What is equality? Part I: Equality of welfare; Part II: Equality of resource, *Philosophy and Public Affairs*, 10:3-4:185-246:283-345.

DWORKIN, R. (1985). *A Matter of Principle*, London: Harvard University Press.

DWORKIN, R. (1993). Justice in the Distribution of Health Care; *McGill Law Journal*: 883-898.

EMANUEL, E.J. (1991). *The Ends of Human Life: Medical Ethics in a Liberal Polity*. Cambridge, MA: Harvard University Press.



- ENGELHARDT, JR., H. TRISTRAM. (1974). The disease of masturbation: Values and the concept of disease. *Bulletin of the History of Medicine*, 48:2:234-248.
- FISHKIN, J. (1983). *Justice, Equal Opportunity, and the Family*. New Haven: Yale University Press.
- GAUTHIER, D. *Morals by Agreement*. Oxford: Oxford University Press.
- GIBBARD, A. (1983). The prospective Pareto principle and equity of access to health care. In *Securing Access to Health Care. Volume Two: Appendices. Sociocultural and Philosophical Studies*, Report of the President's Commission for the Study of Ethical Problems in Medicine, U.S. Government Printing Office, Washington, DC.
- GIBBARD, A. (1990). *Wise Choices, Apt Feelings*. Cambridge: Harvard University Press.
- GLOVER, J. C. (1977). *Causing Death and Saving Lives*. Harmondsworth: Penguin Books.
- GOODIN, R. (1989). *No Smoking: The Ethical Issues*. Chicago: Chicago University Press.
- GRIFFIN, J. (1986). *Well-Being: Its Meaning, Measurement, and Moral Importance*. Oxford: Oxford University Press.
- HARE, R.M. (1963). *Freedom and Reason*. London: Oxford University Press.
- HARE, R.M. (1982). Ethical theory and utilitarianism. In A. Sen and B. Williams (eds.), *Utilitarianism and Beyond*. Cambridge: Cambridge University Press.
- HARE, R.M. (1982). Ethical theory and utilitarianism. In Sen and Williams.
- HARMAN, G. (1977). *The Nature of Morality*. New York: Oxford University Press.
- HARSANYI, J.C. (1982). Morality and the theory of rational behavior. In Sen and Williams.
- HART, H.L. (1975). Rawls on liberty and its priority. In N. Daniels (ed.), *Reading Rawls*, 230-52. New York: Basic.
- HAYEK, F.A. (1960). *The Constitution of Liberty*. London: Routledge & Kegan Paul.



- HENNEKENS, C.H. (1994). Antioxidant vitamins and cancer. *American Journal of Medicine* 97(suppl 3A):2S-4S.
- NAGEL, T. (1986). *The View From Nowhere*. New York: Oxford University Press.
- HERMAN, B. (1994) *The Practice of Moral Judgment*. Cambridge, MA: Harvard University Press
- NAGEL, T. (1991). *Equality and Partiality*. Oxford: Oxford University Press.
- HÖFFE, O. (1994) *Immanuel Kant*, English trans. by M. Farrier. Albany: State University of New York Press.
- NOZICK, R. (1974). *Anarchy, State, and Utopia*. New York: Basic Books.
- HOLMES, S. (1989). The permanent structure of antiliberal thought. In N. Rosenblum (ed.), *Liberalism and the Moral Life*. Cambridge, MA: Harvard University Press.
- KANT, I. (1785). *Fundamental Principles of Metaphysics of Ethics*, English trans. by T.K. Abbott. London: Longmans, 1907.
- O'NEILL, O. (1989). *Contractions of Reason: Exploration of Kant's Practical Reason*, English trans. by L.W. Beck. New York: Liberal Arts Press, 1956.
- KORSGAARD, C.M. (1992). G.A. Cohen: Equality of what? On welfare, goods, and capabilities; Amartya Sen: Capability and well-being; Commentary by Christine M. Korsgaard. In Nussbaum and Sen (1992). *The Quality of Life*. München: Verlag C.H. Beck.
- KUKATHAS, C., P. PETTIT (1990). *Rawls. A Theory of Justice and its Critics*. Stanford: Stanford University Press.
- KYMLICKA, W. (1990). *Contemporary Political Philosophy: An Introduction*. Oxford: Clarendon Press.
- LARMORE, C. (1987). *Patterns of Moral Complexity*. Cambridge: Cambridge University Press.
- LYONS, D. (1994). *Rights, Welfare, and Mill's Moral Theory*. New York: Oxford University Press.
- MACINTYRE, A. (1981). *After Virtue: A Study in Moral Theory*. London: Duckworth.
- MACKENZIE, T.D., BARTECCHI, C.E., and SCHRIER, R.W. (1994) The human costs of tobacco use. *New England Journal of Medicine*, 300:14:975-980.
- MANNING, W.G., KEELER, E.B., NEWHOUSE, J.P., SLOSS, E.M., WASSERMAN, J. (1991). *The Costs of Poor Health Habits: A RAND Study*. Cambridge, MA: Harvard University Press.
- MILL, J.S. (1974). *On Liberty*, ed. G. Himmelfarb. Harmondsworth: Penguin.
- NAGEL, T. (1979). *Mortal Questions*, Cambridge: Cambridge University Press.



- University Press.
- NAGEL, T. (1986). *The View From Nowhere*. New York: Oxford University Press.
- NAGEL, T. (1991). *Equality and Partiality*. Oxford: Oxford University Press.
- NOZICK, R. (1974). *Anarchy, State, and Utopia*. New York: Basic Books.
- NUSSBAUM, M.C. and SEN, A.K. (1992) (eds.). *The Quality of Life*. Oxford: Clarendon Press.
- O'NEILL, O. (1986). *Faces of Hunger*. London: Allen and Unwin.
- O'NEILL, O. (1989). *Constructions of Reason: Exploration of Kant's Practical Philosophy*. Cambridge: Cambridge University Press.
- PARFIT, D. (1984). *Reasons and Persons*. Oxford: Oxford University Press.
- POGGE, T.W. (1994) *John Rawls*. München: Verlag C.H. Beck
- PUTNAM, H. (1981). *Reason, Truth and History*. Cambridge: Cambridge University Press.
- PUTNAM, H. (1992). Objectivity and the science/ethics distinction. In Nussbaum and Sen (1992).
- RAILTON, P. (1984). Alienation, consequentialism, and the demands of morality. *Philosophy and Public Affairs*, 12/2:134-71.
- RAWLS, J. (1971). *A Theory of Justice*. London: Oxford University Press.
- RAWLS, J. (1980). Kantian constructivism in moral theory. *Journal of Philosophy*, 77/9:515-72.
- RAWLS, J. (1982). Social unity and primary goods. In A. Sen and B. Williams (eds.), *Utilitarianism and Beyond*. Cambridge: Cambridge University Press.
- RAWLS, J. (1985). Justice as fairness: Political not metaphysical. *Philosophy and Public Affairs*, 14/3:223-51.
- RAWLS, J. (1988a). Reply to Sen, mimeographed, Harvard University.



- RAWLS, J. (1988b). The priority of right and ideas of the good. *Philosophy and Public Affairs*, 17/4:251-76.
- RAWLS, J. (1993). *Political Liberalism*. Columbia University Press.
- RAWLES, T. (1989). Castigating Qualys. *Journal of Medical Ethics* 15, 143-147
- RORTY, R. (1985). Postmodernist bourgeois liberalism. In R. Hollinger (ed.), *Hermeneutics and Praxis*. Notre Dame, Ind.: University of Notre Dame Press.
- ROSE, G. (1990). British perspective on the U.S. Preventive Services Task Force guidelines. *Journal of General Internal Medicine*. 5(supplement):S128-S132.
- ROSEN, A. (1994). *Kant's Theory of Justice*. Cornell University Press.
- SANDEL, M. (1982). *Liberalism and the Limits of Justice*. Cambridge: Cambridge University Press.
- SAYRE-MCCORD, G. (1988). *Essays on Moral Realism*. Ithaca, NY: Cornell University Press.
- SCANLON, T. (1982). Constructualism and utilitarianism. In A. Sen and B. Williams (eds.), *Utilitarianism and Beyond*. Cambridge: Cambridge University Press.
- SCANLON, T.M. (1975). Preference and Urgency. *Journal of Philosophy*, 72.
- SCANLON, T.M. (1988). Notes on equality, mimeographed, Harvard University.
- SCANLON, T.M. (1990). *The Aims and Authority of Moral Theory*. Unpublished Manuscript.
- SCANLON, T.M. (1992). Value, desire and quality of life. In Nussbaum and Sen (1992).
- SCHEFFLER, S. (1988). *Consequentialism and Its Critics*. London: Oxford University Press.
- SCRUTON, R. (1982). *Kant*. Oxford: Oxford University Press.
- SEN, A.K. (1992). *Inequality Reexamined*. Russell Sage Foundation, NY, Cambridge, MA: Harvard University Press.
- SEN, A.K. (1980). Equality of what? In S. McMurrin (ed.), *The Tanner Lectures on Human Values*, i. Salt Lake City, Utah:



University of Utah Press.

SEN, A.K. (1982). Rights and agency. *Philosophy and Public Affairs*, 11.

SEN, A.K., and WILLIAMS, B. (1982) (eds). *Utilitarianism and Beyond*. Cambridge: Cambridge University Press.

SEN, A.K. (1985). Well-being, agency and freedom: The Dewey lectures 194. *Journal of Philosophy*, 82.

SEN, A.K. (1987). *On Ethics and Economics*. Oxford: Blackwell.

SEN, A.K. (1990). Justice means versus freedom. *Philosophy and Public Affairs*, 19/2:111-21.

SEN, A.K. (1992). Well-being and capability. In Nussbaum and Sen (1992).

SINGER, P. (1983). *Hegel*. Oxford: Oxford University Press.

SINGER, P. (1989). *Practical Ethics*. Cambridge: Cambridge University Press.

SMART, J.J.C. (1973). An outline of a system of utilitarian ethics. In J.J.C. Smart and B. Williams (eds.), *Utilitarianism: For and Against*. Cambridge: Cambridge University Press.

SMART, J.J.C., and WILLIAMS, B. (1973). *Utilitarianism: For and Against*. Cambridge: Cambridge University Press.

SULLIVAN, R.J. (1994). Introduction to Kant's Ethics. Cambridge: Cambridge University Press.

TAYLOR, C. (1979). *Hegel and Modern Society*. Cambridge: Cambridge University Press.

TAYLOR, C. (1982). The diversity of goods. In Sen and Williams (1982).

TENGs, T.O., ADAMS, M.E., PLISKIN, J.S., SAFRAN, D.G., SIEGEL, J.E., WEINSTEIN, M.C., GRAHAM, J.D. (1994). Five-Hundred Life-Saving Interventions and Their Cost-Effectiveness. Unpublished manuscript. Harvard University, Center of Risk Analysis.

U.S. Congress, Office of Technology Assessment, International Health Statistics: What the Numbers Mean for the United States--Background Paper, OTA-BP-H-116. Washington, DC: U.S. Government Printing Office, November 1993.



- WALDRON, J. (1993). *Liberal Rights: Collected Papers 1981-1991*. Cambridge: Cambridge University Press.
- WALZER, M. (1983). *Spheres of Justice: A Defence of Pluralism and Equality*. Oxford: Blackwell.
- WEINSTEIN, M.C., and STASON, W.B. Cost-effectiveness of coronary artery bypass surgery. *Circulation*, 66(supplement):III-56-III-66.
- WEINSTEIN, M.C., and STASON, W.B. (1977). Foundations of cost-effectiveness analysis for health and medical practices. *New England Journal of Medicine*, 296:716-721.
- WEINSTEIN, M.C., and STASON, W.B. (1985). Cost-effectiveness of interventions to prevent or treat coronary heart disease. *Ann Rev Public Health*, 6:41-63.
- WEINSTEIN, M.C. (1990). The costs of prevention. *Journal of General Internal Medicine*, 5(supplement):889-892.
- WIKLER, D. (1978). Persuasion and coercion for health: issues in government efforts to change life style. *Milbank Memorial Fund Quarterly: Health and Society*, 56:3:303-38.
- WIKLER, D. (1983). Philosophical perspectives on access to health care: an introduction. In *Securing Access to Health Care. Volume Two: Appendices. Sociocultural and Philosophical Studies*, U.S. Printing Office, Washington, DC.
- WILLIAMS, B. (1971). The idea of equality. In H. Bedau (ed.), *Justice and Equality*. Englewood Cliffs, NJ: Prentice-Hall.
- WILLIAMS, B. (1973). A critique of utilitarianism. In J.J.C. Smart and B. Willims (eds), *Utilitarianism: For and Against*. Cambridge: Cambridge University Press.
- WILLIAMS, B. (1985). *Ethics and the Limits of Philosophy*. London: Fontana Press.