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## THOUGHTS

# Just caring: Do we need philosophical foundations?



*Prendre soin : avons-nous besoin d'une réflexion philosophique ?*

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Received 17 March 2017; accepted 24 April 2017  
Available online 9 June 2017

### KEYWORDS

Health;  
Just care;  
Justice;  
Philosopher

**Summary** The “Just Caring” problem asks: What does it mean to be a “just” and “caring” society when we have only limited resources (money) to meet virtually unlimited health care needs (linked to novel emerging medical technologies)? The practical implication of the “Just Caring” problem is that the need for health care rationing is inescapable. That means that some health care needs will not be met, even though those needs have moral weight, because meeting such needs is presumptively a matter of justice. How then can such rationing decisions be made justly or fairly? And who should have responsibility for making such decisions? Should such decision-making be the responsibility of legislative bodies, or administrators of health care institutions, or associations of physicians, or private insurers (in the United States), or employers (in the United States)? What should be the role of philosophers in addressing the problem of just health care rationing? After all, philosophers are supposed to be the experts when it comes to theories of justice. And, if philosophers are supposed to have such a role, are their judgments of health care justice going to be justified by appeal to ethical foundations of some sort? In this essay, I start by conceding that philosophers have had much to say about how we ought to conceptualize our understanding of the notion of justice. But the world has become enormously more complicated since Plato and Aristotle offered their reflections on justice. The same is true for Hume and Kant. Those perspectives seem remote and unhelpful about the problem of just health care rationing. The same would seem to be true about Rawls (1971) and Nozick (1974). Their theories of justice are simply too broad and too abstract to address the complex, heterogeneous problems of just health care rationing in the real world of health care we have today (though, as I show later, Rawls does have much to offer regarding the

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<http://dx.doi.org/10.1016/j.jemep.2017.04.014>

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notion of public reason).<sup>1</sup> In the first part of this essay I sketch out several concrete problems of health care rationing having to do with the allocation of targeted cancer therapies, drugs used to treat patients at risk for heart disease, drugs used to treat HIV+ patients, and drugs used to treat very rare diseases. This provides helpful context for the remainder of the essay. In the second part of this essay I argue that traditional theories of justice have only a limited role to play in addressing these problems of health care rationing. This is because no perfectly just answer can be given for the vast majority of real world problems of health care justice. Instead, what we need to settle for are non-ideal resolutions of these problems. Ultimately, I would defend a pluralistic conception of health care justice, which is another reason why we need to settle for non-ideal resolutions. Those non-ideal resolutions will have to emerge from broad, inclusive, fair processes of rational democratic deliberation. Those deliberations will be aimed at achieving a reflective balance of competing considerations of health care justice with respect to a very specific problem of health care rationing. In the third part of this essay, I argue that the role of philosophers is to protect the integrity of this public deliberative process, as opposed to seeking ethical foundations for their judgments of health care justice. This, I argue, entails three responsibilities for philosophers. First, these public deliberations need what we might call "just boundaries". Those boundaries are defined by what I refer to as "constitutional principles of health care justice". The role of philosophers is to articulate those constitutional principles and what counts as a reasonable balance among those principles as they are applied to specific problems of just health care rationing. Second, the role of philosophers is to articulate a specific understanding of "public reason", which would govern those democratic deliberations. Here I have in mind the work of Rawls and his notions of "the rational" and "the reasonable" (Rawls, 1993). Third, philosophers have their traditional Socratic role of being thoughtful critics of the outcomes of these public deliberations, mindful of the fact that most outcomes will be non-ideally just. That is, philosophers must distinguish outcomes that are non-ideally "just enough" from those that are not "just enough". Ultimately, the role of philosophers is not to construct or discover just foundations for these deliberative processes but to protect the fairness and integrity of the deliberative process itself.

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## MOTS CLÉS

Santé ;  
Soin juste ;  
Justice ;  
Philosophe

**Résumé** « Just caring » ou les « soins justes » : avons-nous besoin de fondements philosophiques ? Le problème des soins justes pose la question suivante : que signifie être une société « juste » de « prise en charge » lorsque nous avons des ressources limitées (l'argent) pour répondre aux besoins de santé, virtuellement illimités en raison de l'émergence de nouvelles technologies médicales ? L'implication pratique du problème des « soins justes » est que le besoin de rationnement du système de santé est inévitable. Cela signifie que certains besoins du système de santé ne seront pas pris en charge, même si ces besoins ont une dimension morale inhérente puisqu'il est question de justice. Ainsi, comment les décisions de rationnement peuvent-elles être justes et équitables ? Et qui devrait avoir la responsabilité de prendre de telles décisions ? Le corps législatif, les administrateurs du système de santé, des associations de médecins, des assureurs privés (aux États-Unis) ou des employeurs (aux États-Unis) ? Que devrait être le rôle des philosophes en relation avec le problème de rationnement des « soins justes » ? Après tout, les philosophes sont censés être les experts quand il s'agit des théories de la justice. Dans cet essai, je vais commencer par expliquer comment les philosophes ont déjà beaucoup écrit sur la façon dont nous devons conceptualiser notre compréhension de la

<sup>1</sup> Nozick is a libertarian. For him individuals have a just claim only to that which they have justly acquired, mostly by paying for it. But even in the United States few would argue that a hospital would have acted justly if it dumped a patient in the hospital parking lot to die because they could not pay for the medical care that would have saved their life. Rawls is at the opposite end of the justice spectrum from Nozick. Rawls is especially concerned to protect the just interests of those who are least well off, in this case the medically least well off. Again, however, few would argue that a just society was ethically obligated to spend a million dollars to sustain someone terminally ill for two extra weeks of life. In both cases, more ethically nuanced judgments are required.

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