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The Place of Health in the Liberal Theory of Justice

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Introduction

What is the political significance of health? At first glance, this does not seem to be a very complicated issue. Not many people would dispute the claim that health is profoundly important to human beings. This sentiment is commonly reflected in our moral rhetoric that health is a fundamental human right¹, or how we characterize and condemn severe inequalities of health outcomes as deplorable cases of injustice. But before we can make such moral judgments, we must first clarify what is the relationship between health and justice. For many of us who care for our fellow human beings to be as healthy as possible, we want to think that health promotion and health equality are priorities of justice. But what does the term “health” mean when it is taken as a political ideal? What should the term “health” mean when it is employed in the political sphere to justify what entitlements we have and what obligations we have towards others in the name of this public value?

My paper is to provide a conceptual analysis of the meaning and value of health within a specific framework of justice. I will be working within the liberal theory of justice as elaborated by John Rawls to develop an account of health that makes the notion relevant to justice. I will first argue against the prevailing biomedical approach of defining health purely factually and instead, advocate a conception of health that incorporates a normative component to derive moral rights and responsibilities. I will then make the case that the most reasonable interpretation of

¹ This is most famously reified in Article 25 of the Universal Declaration of Human Rights, which states that “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

health within the Rawlsian framework of justice is derived from Rawls's democratic conception of persons. By understanding the public identity of citizens as persons who possess a specific set of moral powers and highest order moral interests to develop and exercise these powers, we can derive the political significance of health as the necessary background condition for these moral powers to exist and be exercised. Therefore, structural arrangements promote public health to the extent that the two moral powers shared by all citizens are developed and sustained.

The Normative Dimension of Health

Defining "health" in a way that makes the term politically significant challenges the prevailing approach to defining health. The orthodoxy within the discourse of biomedical science is to understand health as simply physical or natural facts about the human body. This "biomedical" or "naturalistic" model of health presumes there to be a biological design typical of our species that can be sufficiently explained in objective, value-neutral physiological and psychological descriptions². This approach takes "health" to be the state of the human body when it functions according to its species-typical design, and the contrary notions of "disease" and "pathology" are physiological and psychological statuses of mechanical failure, dysfunction, or deviation from this human biological design.

But the problem of conceptualizing health from a purely biomedical standpoint is its failure to capture why health is so important to human life. A naturalistic account of health excludes the normative and phenomenological dimensions connected to concrete human beings as profound, lived experience that we value or disvalue. By reducing health to only physical facts about the human body, what no longer remains in view is how health is significant to our

² The biomedical or naturalistic approach is exemplified in works like Christopher Boorse, who look to scientific theory in articulating the meaning of human health. See Christopher Boorse, "Health as a Theoretical Concept," *Philosophy of Science*, Vol. 44, No. 4 (1977): 542-573.

moral identity and biographical narratives. Hence, a purely biomedical interpretation takes away any of the moral, and hence political, sting out of the term and therefore lacks any moral content for deriving ethical prescriptions. As David Hume pointed out, any attempt to derive an ‘ought’ from an ‘is’ is flawed reasoning because no ethical or evaluative conclusion may be validly inferred from a set of factual premises.³ From this Humean insight, descriptive statements regarding the proper functioning of the heart or lungs cannot logically support the prescriptive statement that society has an obligation to maintain such bodily conditions.

If we want to appeal to the notion of health as an ethical resource to derive rights, responsibilities, and respect for human dignity, then our discourse for defining ‘health’ must be approached differently from the reductionist process of “scientification” undertaken by the naturalists. An appropriate conception of health that motivates public policy must somehow identify which conditions of the human body are valuable to us as citizens. That is, we must not only consider descriptions of physical and psychological states, but also consider normative judgments concerning what physiological or psychological states we value or disvalue. So, a politically significant conception of “health” is comprised of a factual dimension and a moral dimension, and it is the latter that the biomedical approach fails to recognize. By recognizing health to have a normative component, formulating a reasonable account of health that is politically relevant involves clarifying what standards or ideals of justice we have in place in

³ Hume writes, “In every system of morality, which I have hitherto met with, I have always remarked, that the author proceeds for some time in the ordinary ways of reasoning, and establishes the being of a God, or makes observations concerning human affairs; when all of a sudden I am surprised to find, that instead of the usual copulations of propositions, *is*, and *is not*, I meet with no proposition that is not connected with an *ought*, or an *ought not*. This change is imperceptible; but is however, of the last consequence. For as this *ought*, or *ought not*, expresses some new relation or affirmation, 'tis necessary that it should be observed and explained; and at the same time that a reason should be given; for what seems altogether inconceivable, how this new relation can be a deduction from others, which are entirely different from it. But as authors do not commonly use this precaution, I shall presume to recommend it to the readers; and am persuaded, that this small attention would subvert all the vulgar systems of morality, and let us see, that the distinction of vice and virtue is not founded merely on the relations of objects, nor is perceived by reason” (Hume, 335).

order to judge which physiological and psychological states we have reason to value or disvalue from a specific standpoint vis a vis as citizens.

Different Liberal Interpretations of Health

What political norms are we employing to identify which biological states are significant to justice? A value-laden, politically-useful interpretation of health to draw legitimate ethical claims of rights and social responsibilities requires us to first specify what theoretical framework of social justice we are drawing from in order to identify which biological conditions have political value. This is necessary because different theoretical frameworks of justice make different moral and metaphysical commitments. As I mentioned before, I am working with the political ideas and norms central in the liberal theory of justice as elaborated by John Rawls. But establishing a connection between health and the liberal theory of justice can be a tricky affair. Rawls himself never fully dealt with the question of how health is relevant to justice. So extending the liberal theory of justice to the specific terrains of human life and inequalities, such as health, has been the project embarked by other political bioethicists.

Political liberal bioethicists have proposed various interpretations of the political significance of health by deriving its value from particular features of the liberal theory of justice. For example, Fabienne Peter focuses on the liberal aim to be neutral with respect to people's diverse conceptions of the good life to argue that "health" has no direct political value, if we take health to be a projection of one's moral values⁴. Norman Daniels focuses on the fair equality of opportunity principle to derive the political significance of health⁵. These liberal

⁴ Peter, Fabienne, "'Health Equity and Social Justice.'" *Journal of Applied Philosophy*. 18.2 (2001): 159-170. Print.

⁵ Daniels, Norman. *Just Health: Meeting Health Needs Fairly*. Cambridge: Cambridge University Press, 2008. Print.

accounts are popular and persuasive, but I believe they are ultimately flawed, each for different reasons. A critique of each interpretation requires greater treatment than I can provide in this paper. Instead, I will offer an alternative account of the political significance of health in the liberal theory of justice.

Rawls's Democratic Conception of Persons

In figuring out the political significance of health that is connected to us as citizens, the most appropriate starting point is to clarify who we are in the liberal theory of justice. Using Richard Rorty's apt distinction between the political question of "Who are we?" from the metaphysical question of "What are we?"⁶, the former is concerned with the ideal of citizenship, or how we want society to recognize and respect us. It is a question regarding our political or public identity to reconsider and reconstruct a political community organized by a specific set of ideals. In asking "Who are we?" we are proposing to reform our conception of the just society that fits with the political conception of ourselves as citizens.

So, we begin with Rawls' political conception of the person. In the liberal framework of justice, persons are the primary units of equal moral concern, and therefore it is the claims of persons that constitute the basis of social obligations. Since persons are the participants in the cooperative ventures that make up society, Rawls' conception of a just society is intimately connected to his conception of political personhood.

The Rawlsian conception of the person is modeled in the original position. For Rawls, our personhood should not be defined by mere accidental attributes, such as our race, sex, or social status. The veil of ignorance removes these types of knowledge in the construction of the

⁶ Rorty, Richard, "Who Are We? Moral Universalism and Economic Triage," *Global Ethics: Seminal Essays*, ed. Thomas Pogge and Keith Horton. St. Paul: Paragon House, 2008. Print.

original position because these contingencies are inessential to our status as citizens. But what is recognized as an essential characteristic of our public identity is that we are individual agents possessing two “moral powers,” which are the following: (1) The moral power for a sense of justice, which is the capacity to understand, to apply, and to act from the principles of political justice that specify the fair terms of social cooperation, and (2) The moral power for a conception of the good, which is the capacity to have, to revise, and rationally to pursue a conception of the good⁷. I consider these two moral powers as the formula of Rawlsian agency.

Accompanied with these two moral powers, citizens are also regarded as possessing two corresponding highest-order moral interests in developing and exercising these powers. Higher-order interests are the basic interests rooted in the fundamental idea of the person⁸. So, the Rawlsian ideal of citizenship is characterized as having not only the capacities for a sense of justice and for a conception of the good, but also the moral interests to develop and exercise these capacities. Since our fundamental needs as citizens are related to our highest order moral interests, the primary obligations of society is to fulfill these needs by cultivating and maintaining our moral powers to attain a level of agency so that we can participate in the cooperative life of society, construct ways of living that we reasonably find to be worthwhile, and our self-respect is affirmed. If these moral powers cannot be exercised, then the political status as citizens or persons would be deprived⁹. Since exercising our moral powers is a fundamental interest and a criterion of citizenship, Rawls argues that citizens’ representatives in

⁷ Rawls describes the two moral powers in page 19 of Rawls, John, *Justice as Fairness: A Restatement*. Cambridge: Harvard University Press, 2001. Print.

⁸ Rawls discusses the notion of the higher-order moral interests in page 74 of Rawls, John, *Political Liberalism*. Cambridge: Harvard University Press, 1993. Print.

⁹ Rawls remarks, “Someone who has not developed and cannot exercise the moral powers to the minimum requisite degree cannot be a normal and fully cooperating member of society over a complete life. From this it follows that as citizens’ representatives the parties adopt principles that guarantee conditions securing for those powers their adequate development and full exercise” (Rawls 1993, 74). So what is at stake in the development of our moral powers is the realization of our personhood.

the original position would adopt principles that guarantee conditions for the moral powers to be developed and exercised. Thus, social guarantees against standard threats to our political personhood are priorities of justice.

Health as a Condition for the Exercise of the Two Moral Powers

Since Rawls's democratic conception of the person is the locus of political values, we can now frame the enterprise of formulating a politically significant conception of health as specifying the range of physiological and psychological states we have reason to value as persons with a common set of highest order moral interests. Health would be the biological states and functioning that serve the fundamental needs and interests of citizens.

How is health as states or functioning of the body connected to the highest order moral interests of the person? I believe we can learn this relationship by looking at the relationship between the functional ability to reason proficiently and the highest order moral interests of the person. After elaborating on the two moral powers as essential characteristics of the moral person, Rawls states, "[T]o characterize the person, we must add to these concepts those used to formulate the powers of reason, inference, and judgment. These are essential companion powers to the two moral powers and are required for their exercise and for the practice of the virtues" (Rawls 2001, 24). The realization and exercise of intellectual powers is a necessary condition for the realization and exercise of the moral powers. If the development of one's reasoning and analytical skills is impoverished, then no moral powers can be exercised and thus, one is disqualified from the cooperative activity of social life. So, the highest order moral interests to develop or maintain the two moral powers associated with personhood necessarily implies the accompanying interests to develop or maintain any of the companion powers that make the exercise of the two moral powers possible.

The political significance of health should be understood the same way as a necessary companion power for the two moral powers to exist and be exercised. As human beings, embodiment is the background condition for the existence and exercise of human agency. What this means is that the spectrum of human activities, such as playing soccer or pondering the good life, are possible only in virtue of having a body. The functions and processes of the human body—such as digestion, respiration, circulation of the blood, and coordination of limbs—enable us to assert or express ourselves, whether it involves acting on our desires, engaging in projects, and pursuing various aims and goals in order to live up to our political and nonpolitical identities.

Moral powers are not disembodied entities, but are dependent on a range of biological conditions. When we seriously consider the embodied nature of our agency, health can be taken as a prerequisite for the exercise of the two moral powers. The meaning of health, as a political ideal in the liberal theory of justice, refers to the range of biological conditions that are essential for the existence and exercise of the two moral powers. Pathologies are the biological conditions that threaten the existence and exercise of the two moral powers. When health is conceptualized in this manner, there is a political justification to elevate the pursuit of public health as a priority of justice. Like the intellectual capacities of reasoning and judgment, the physical capacities associated with a “healthy” body is another companion power to accompany the two moral characteristics that essentially define our political personhood. By understanding health as an enabling condition for the existence and exercise of the two moral powers, health becomes a basic need. And the protection and promotion of health would be a social duty to meet our highest order moral interests to cultivate and maintain our political status as fully cooperating members of society over a complete life.

I believe this political conception of health is compelling for two reasons. First, it establishes the minimum that is essential, at least conceptually, for states to provide for their citizens in regards to the mobilization of resources and reorganization of structural arrangements impactful to health. Unlike the conception of health as normal species-typical functioning, a conception of health that refers to the range of biological conditions essential for the existence and exercise of one's agency establishes a baseline that is politically justified because it is connected to the highest order moral interests of citizens in a democratic society.

Second, this political conception of health maintains the dignity of exceptional persons who resort to alternative modes of functioning to engage with the world and exercise their agency. I am referring to individuals with physical and/or cognitive impairments, such as blind people, quadriplegics, and those relying on cognitive surrogates. It recognizes the social model of disability that much disability experienced by individuals is socially constructed. That is, the status of disability is not a defect of the body, but arises from an unjustified prejudice toward a particular mode of functioning in the structuring of a social environment. There are alternative fashions of developing and exercising one's moral powers, and interacting with the world. What matters to justice is not the mode of functioning, but the level of functioning¹⁰.

Alternatively, the biomedical model of health would consider any person who does not fit into its biological paradigm as being defective or, at worst, "socially dead," that is, they are not regarded as being self-authenticating sources of valid claims on their institutions so as to advance

¹⁰ Anita Silvers draws the very apt distinction between the "mode of functioning" and "level of functioning," and builds the persuasive case that the precedence of the former in its focus on normal functioning is raised at the expense of the latter (Silvers, 101). With the presence of alternative fashions of developing and exercising one's moral powers, there is no political justification for privileging normal functioning. "By devaluing alternative or adaptive modes of functioning", as noted by Silvers, policies that seek to "normalize" individuals "transgresses liberal theory's requirement that the state remain neutral between different citizens' ideas of the good life" (Silvers, 112). Even if the "normal" mode of functioning meets the level of functioning required for citizenship, the normative bias towards normal functioning in the conceptualization of health is not compatible with Rawlsian justice.

their conceptions of the good. Rawls also claims that self-respect is a psychological prerequisite for the development and exercise of the two moral powers because a secure sense of our own value motivates us to pursue our own conception of the good. But when labels of pathology or abnormality, such as “unhealthy” and “diseased,” are applied to individuals who may be exceptional in how they function, but are still fully capable citizens with a range of opportunities and conceptions of the good that are worth carrying out can have adverse effects on their self-worth as persons. Thus, the attribution of biological pathology is politicized: such attributions do not simply describe biological conditions, but characterizes the value of individuals’ lives in a way that carries deep political implications. A conception of health as a condition for the exercise of the moral powers is more sensitive to the variety of human functioning because it values any biological condition that supports the functioning and the flourishing of moral capacities essential to one’s citizenship.

Conclusion

In my paper, I propose that the most reasonable locus for understanding the political significance of health is in Rawls’s democratic conception of persons. The liberal theory of justice works from an ideal of citizenship that takes the moral powers for a conception of the good and a sense of justice to be the defining properties of personhood. This moral personality is what grounds civic equality and human dignity. This idealization of citizens also includes the highest order moral interests to enable and exercise these capacities. Therefore, social obligations would include the provision of measures that would cultivate these moral characteristics.

Since the moral powers are embodied phenomena, I argue that Rawlsian justice requires a just society to ensure measures that promote one’s health to the extent that they enable the

existence and exercise of the moral powers in all citizens. As a necessary companion power, the notion of health refers to the physiological and psychological states that enable the exercise of the two moral powers.

Since health is interpreted as the biological precondition for the existence and exercise of the two moral powers, the goal of health justice is to determine the extent of citizens' political entitlement to medical and non-medical resources in hopes of attaining biological states needed to enable the two moral powers. Though this political conception of health is highly abstract, the notion of health is reoriented in a way that reflects our democratic principles and values as expressed in justice as fairness. This reorientation of health can then guide policy discussions related to the preservation and promotion of public health by asking the question of how it serves the fundamental needs and interests of citizens in a democratic society.

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