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Replacing Health Insurance with Health Assurance: Establishing the Right Health Care and the Need for Reform in the United States

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**REPLACING HEALTH INSURANCE WITH HEALTH ASSURANCE: ESTABLISHING
THE RIGHT TO HEALTH CARE AND THE NEED FOR REFORM IN THE UNITED
STATES**

A thesis submitted to:
Regis College
The Honors Program
in partial fulfillment of the requirements
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by

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TABLE OF CONTENTS

Acknowledgements	iv
I. Prescribing a Cure: Establishing the Need for Health Care Reform in the United States	1
II. The Philosophical Establishment of Health Care as a Fundamental Right	10
III. Applying Rawlsian Justice to the Realm of Health Care	26
IV. Universalism, Communitarianism, and the Quest for a Reasonable Solution to the Problem of Health Care	45
V. The Medical Sphere of Justice	64
VI. The Answer to the Health Care Problem	79
Literature Cited	101

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Introduction:
*Prescribing a Cure: Establishing the Need for Health Care Reform in the
United States*

In 2003, my 73-year-old grandfather collapsed on the kitchen floor. Hearing the crash, my grandmother rushed into the kitchen only to find her husband completely unresponsive. Hysterical, my grandma dialed 911, and thus began a cascade of life-saving events. Within minutes of the call, an ambulance arrived and whisked my grandpa away to St. Joseph Exempla Hospital where an outstanding team of doctors immediately performed surgery. Two bypasses and only a few hours later, my grandpa began the process of recovering from his massive heart attack. Now five years later, the only reminders of my grandfather's medical emergency are a scar that occasionally peeks out from under his shirt collar, the recognition that life is short, and a newfound zeal for living.

In 2006, 48-year-old Rebecca Edwards collapsed during her 8-year-old son Matt's flute recital. Edwards, whom I met at a lecture she was giving, was rushed to University Hospital via ambulance where doctors performed angioplasty and sent her home the following morning. Six months later, Becky returned to the hospital with chest pains and was wheeled into the operating room for emergency open-heart surgery. Three bypasses and half a year after her initial collapse, Becky began the process of recovering from her massive heart attack. Now almost three years later, Becky has several reminders of the incident. Like my grandfather, she too has a scar that sometimes peeks out from under her shirt collar, as well as the recognition that life is short. However, Becky did not find

a newfound zeal for life; instead, she found herself 140,000 dollars in medical debt. She found a lack of hope for the future, and she found herself wishing, at times, that she had died. Two Coloradans had two similar heart attacks, yet the outcomes were markedly different. Why? The answer is simple: my grandfather had health insurance and Becky Edwards did not.

Unfortunately, cases like that of Becky Edwards are not uncommon in the United States, which points to the fact that the nation's current health care problem is an incontestably complex one. According to a pamphlet issued on behalf of the United Nations Development Program, the United States is "the only industrialized nation in the world that does not have a universal health insurance system," and the most obvious flaw in the standing system, of course, lies in the fact that affordable, quality health care simply is not available to an increasingly large percentage of the American population. The 2007 report released by the U.S. Census Bureau indicated that there were 45.7 million Americans living without health insurance, a staggering number which represents approximately 15.3% of the United States' total population. To put such statistics into perspective, consider this: 45.7 million people is equal to the combined population of 24 states, including Oklahoma, Connecticut, Iowa, Mississippi, Kansas, Arkansas, Nevada, Utah, New Mexico, Oregon, Nebraska, Idaho, Maine, New Hampshire, Rhode Island, Montana, North Dakota, South Dakota, Vermont, Wyoming, Hawaii, Alaska, Maine, and Wyoming (Joseph Graham). To learn of the sheer volume of uninsured citizens is sobering to say the least, but unfortunately, the true scope of the health care crisis extends much deeper.

A Human Development Report that was released by the United Nations in 2005 paints a picture of how dire the situation of the uninsured really is, stating that,

the uninsured are less likely to have regular outpatient care than are insured patients. They also receive less preventative care. Over 40% of the uninsured do not have a regular place to go when they are sick and over a third of the uninsured say that they or someone in their family went without needed care, including recommended treatments or prescription drugs in the last year, because of the cost (4-5).

With this in mind, then, it is unsurprising that of the 45.7 million uninsured Americans, an estimated 18,000 die each year due to a lack of accessible health care and affordable treatment options (Quadagno 17). David Broden of *The Washington Post* attributes this problem to the fact that “costs are rising four times as fast as wages,” and he calls the health care system “a backward industry...that needs a massive overhaul.” Though such statistics in and of themselves are appalling, it is all too easy to forget that these numbers represent human beings, many of whom end up like Rebecca Edwards. If this is the reality in which we live, it is obvious that our current health care system is anything but ideal, and is in fact utterly unjust.

Despite the gravity of the aforementioned information, it is important to acknowledge the fact that America’s health care crisis stems not only from the staggering number of uninsured citizens, but from the number of underinsured citizens as well. According to author Jonathan Cohn, more than 25 million Americans are classified as underinsured, and such inadequate health coverage leaves these citizens vulnerable to financial strain, especially if an unanticipated and uncovered health situation arises. Terming the cost of uncovered medical emergencies as merely a “financial strain,” however, is misleading; nearly half of all bankruptcies in the nation are attributed to

medical bills, and more than 75% of medically related bankruptcy filings are submitted by citizens with health insurance (Himmelstein et al.). These facts are morally inconceivable; how can America's current health care system allow for a person's life to be saved at the cost of inescapable financial ruin? When health care statistics are viewed not as numbers but as human stories, one must come to the following realization: the health care system as it stands is not only unethical, but it has reached a point where it has become unacceptable.

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The United States' standing health care system is not only morally unjust, but it is a failing system that is in need of drastic change. How, then, should the health care system be reformed? What model should it follow? In this thesis, I will argue that because no existing health care structure has proven to be ideal, America's existing structure should be reformed based on a system of justice. "Justice," as defined by Professor Michael Sandel, is what forms the core of morality, and as it has been widely accepted that humans are inherently moral beings, justice can be considered a necessity. Though any overarching concept is arguable, humans can be considered moral beings because we alone possess the ability to think, and we alone

are able to examine and evaluate the ends we pursue. We ask questions about which path we should take, questions about priority. As a result of this choice, we are held responsible for whether we choose the right ends to pursue. Other beings just do what they do. Only we question what it is that we do and thus only we are morally accountable beings (Bryan – Jan. 14, 2008).

Through my observations, interviews, and research, I have discovered that justice can only be realized when there is certain reconciliation between moral idealism and reality.

Moral idealism is certainly a necessary component as it provides the picture of justice that human beings can aspire to. Without such idealism, the state of the world would never improve beyond what it is, a terrible fate to be sure. However, reality too must play an important role for if moral idealism cannot be translated into a realistic application, the world will once again remain precisely as it is. Thus, because the health care system is an example of an area that cannot be allowed to remain as it is, justice and the needed transformation must be found in the reconciliation between moral idealism and reality.

As one might expect, the idealism that is needed to revolutionize the nation's current health care system has primarily been driven by the want for justice, and by the desire for a fair society in which all citizens are able to obtain quality, affordable medical treatments for themselves and their families. The precise definition of the term "justice" is a malleable one, and indeed it has been discussed as such in nearly every major philosophical work concerning ethics since Plato's Republic (17). In the 20th Century, the predominant philosophical beliefs about justice have followed a utilitarian form. According to utilitarianism, justice is attained by maximizing the welfare and good of a given society, and as long as the needs of the majority are served, the unfair treatment of the minority is accepted (Lebacqz 33 - 34). However, the idea that individuals were unimportant and could be sacrificed for the common good did not resonate with many people, and thus it was with an open mind that the academic community received political philosopher John Rawls' revolutionary ideas regarding justice and the individual (Wenar).

In an effort to provide an alternative to the theory of utilitarian justice, Professor John Rawls first put forth his ideas of justice based on equality and individual rights in 1971's A Theory of Justice. Justice, according to Rawls, "is the first virtue of social institutions, as truth is of systems of thought," and it very much lays the foundation for stability in any given society (Rawls¹ 3). Rawls argued that social stability would not be found by catering to the common good of the majority, but rather by catering to the good of the individual. His reasoning was that if enough citizens found themselves being treated unequally and unfairly, then it would not be unreasonable to assume that social unrest would eventually gain a foothold and thereby not only harm the social structure, but work against the common good as well. According to author Chandran Kukathas, Rawls also adopted a Kantian line of reasoning for why the rights of the individual should not be forsaken for the good of the whole. Kantian philosophy holds that all human beings are endowed with dignity, and as such, all persons should be treated as equals. For "whenever individuals are treated unequally on the basis of characteristics that are arbitrary and irrelevant, their fundamental human dignity is violated," and thus according to this line of reasoning, true justice can only be found if the needs of the individual are duly considered (Andre and Velasquez).

In this thesis, I intend to use Rawlsian justice as a starting point for creating a viable means of health care reform. Undeniably, Rawls was a profoundly important philosopher and his attempt to establish a just society has largely been considered among the first practical alternatives to utilitarian thought (Audard 3 – 4). Though Rawls never specifically mentions the right to health care within his published works, he effectively

provides the moral idealism that is needed to facilitate the transition from the current health care system to an unequivocally just one. Rawls establishes the identity of the individual as both rational and self-interested, and it is on this basis that he devises an interesting system (which will be discussed in the next chapter) of determining the just distribution of social goods. It is in applying this particular system of good distribution to the realm of health care that one can both easily and logically conclude that affordable and accessible health care is a staple component to a just society.

Though Rawlsian theory can be used to establish the need for just health care distribution, Rawls himself does not provide an actual means for turning this ideal into a fixture of reality. Thus, after a thorough discussion of Rawls I intend to survey the works of other prominent philosophers who have actually applied Rawlsian justice to health care in an effort to tease out a realistic system of medical distribution. In particular, I will be surveying the works of Norman Daniels, Ronald Green, and John Moskop. Daniels argues that health care is a necessary good rather than an expendable commodity, and as such, health care must be equally available to all citizens. Green, another contemporary philosopher, argues that health care should be universally provided to citizens by the government. Finally, Moskop argues that under a system of Rawlsian justice, health care would be considered an inherent right, and therefore no citizen could be denied it. Each of the aforementioned theories is certainly a valid attempt at reconstructing the standing health care system based on Rawlsian ideals, and in my survey, I will assess the different benefits and liabilities of each.

Though the approaches of Daniels, Green and Moskop are undeniably more realistic in terms of practical applicability than Rawls' approach is, each falls short for a variety of reasons. Acknowledging that perhaps Rawlsian justice best remains an ideology rather than a reality, I will then survey the works of Michael Walzer, a lesser known but equally important philosopher. Like Rawls, Walzer's primary concern lies in describing a just society, but Walzer's approach is unique in that he makes a distinct point of tailoring his ideals to reality. Walzer has often been classified by his peers as a communitarian, and his primary argument is that in a just society, social goods cannot be fairly distributed until their relative value is known. To determine the relative value of a particular good, Walzer turns to shared understandings within a community, the details of which will be discussed later on.

Finally, in an effort to describe a viable solution to the nation's current health care crisis, I will explore the solution proposed by Dutch professor Margo J. Trappenburg. Trappenburg formulates her solution based on what she feels are the shortcomings of both Rawls and Walzer, and indeed when the idealism of Rawls and Walzer are paired with the practicality of Trappenburg, the results are quite interesting. After the discussion of Trappenburg's ideas, I intend to conclude with my own assessment of the health care crisis, and I will aim to propose my own solution to the problem based on the aforementioned works.

.....

To begin the exploration of the United States' current health care crisis, then, the discussion will turn to the works of political philosopher John Rawls. In Justice as Fairness, Rawls describes the goal of his work as follows:

This endeavor belongs to political philosophy as reconciliation; for seeing that the conditions of a social world at least allow for that possibility affects our view of the world itself. No longer need it seem hopelessly hostile, a world in which the will to dominate and oppressive cruelties, abetted by prejudice and folly, must inevitably prevail. None of this may ease our loss, situated as we may be in a corrupt society. But we may reflect that the world is not in itself inhospitable to political justice and its good. Our social world might have been different and there is hope for those at another time and place (38).

In the end, Rawls fulfills his promise. His carefully constructed arguments for the reign of justice in this corrupt world demonstrate idealism in its purest form: hope. Rawls shows that the current social constructs of this world can indeed be changed, and he shows that the world can be bettered for the sake of the coming generation. Thus, it is with this brand of Rawlsian hope that the journey toward reforming the modern health care system begins, and to properly explain Rawlsian justice, we shall start at the beginning.

Chapter 1:
The Philosophical Establishment of Health Care as a Fundamental Right

John B. Rawls was an American political philosopher who first published his book A Theory of Justice in 1971 as a challenge to Utilitarianism, which had prevailed as the predominant political philosophy during the first half of the 20th Century (Encyclopedia of World Biography – John Rawls). Utilitarianism, which was pioneered by Jeremy Bentham, is essentially a reductionist approach to justice that says the greatest good should be pursued for the greatest number of people (Lebacqz). According to John Stuart Mill, who significantly contributed to the Utilitarian doctrine, the moral worth of an action is based on its contribution to overall utility, or in other words, on its contribution to the happiness of all persons. According to Rawls, however, utilitarianism is nothing more than the idea that “society is rightly ordered, and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all the individuals belonging to it” (Rawls¹ 22). The fact that Utilitarianism protects individual rights only as long as they contribute to the happiness of the whole, however, was considered unacceptable by many, and Rawls was no exception (Glover 104).

Rawls’ primary objection to utilitarianism was that the theory of utility does not value the fundamental rights and liberties of the individual (Mendus 133). If, for instance, it was determined that society benefitted from slavery more than slaves suffered, then utilitarianism would allow slavery, regardless of any injustices experienced

by the individual. Utilitarians would counter this argument by claiming that because slavery is obviously inefficient, it would never be acceptable as part of a moral theory (Sheng). However, according to Jonathan Glover, it is this very logic that Rawls objects to: slavery should not be considered morally wrong because it is inefficient, it should be considered morally wrong because it violates the rights of the individual. Rawls' goal, then, was to articulate a conception of justice that incorporates a strong defense of the rights of the individual, and he desired to formulate a definitive moral theory based on moral intuition rather than on utility. In order to accomplish his goal of developing "an alternative systematic account of justice that is superior...to the dominant utilitarianism of tradition," Rawls appealed to what he felt was an inherent human desire for justice (Rawls¹ xviii)¹.

Objecting to the fact that "during much of modern moral philosophy, the predominant systematic theory has been some form of utilitarianism," Rawls published his book A Theory of Justice in 1971 as an attempt to present a viable philosophical alternative in the form of a social contract theory (Rawls¹ xvii). A Theory of Justice has often been referred to as "one of the most important philosophical works of the 20th century," and indeed its ideas have not revolutionized the way we think about justice as well (Encyclopedia of World Biography – John Rawls). Rawls' primary concern was the

¹ To preface Rawls' argument that there exists a universal desire for justice, it is important to note the role that human desire actually plays in establishing a just society. Philosophers ranging from Aristotle and Plato to Nietzsche and Descartes have agreed that desire is an inherent part of the human condition. Generally speaking, human desire is defined as the longing for moral and material values that will enhance both one's present and future quality of life (Marks 157). What these coveted values are, however, is a subjective matter, and therein lies the difficulty. The subjectivity of human desire makes it difficult to assert that any particular want is universal, and thus one cannot easily make the claim that the desire to establish a just society is a collective one.

establishment of a society in which social goods were fairly and equally distributed to all members, a goal which he felt could be universally agreed upon. However, according to psychologist and author Joel Marks, there are very few universally applicable concepts, and therefore to say that a just society is collectively desired is difficult². But if Rawls' ideas are approached with the understanding that the desire for a just society does not have to take the form of a universal mandate and can instead be represented by individual desires for fairness, then the universal dilemma is circumvented. To responsibly determine what constitutes a fair and equal distribution of social goods in a manner that caters to the desires of the individual, Rawls suggests the use of a process collectively referred to as "Kantian Constructivism"; as defined by Rawls, this process is three-fold, and it involves the Original Position, the Veil of Ignorance, and the selection of the Two Principles of Justice.

The first piece of the aforementioned trifecta is referred to as the "Original Position," and Rawls suggests that the necessary conditions for a fair social structure can be determined by free and equal parties within it (Rawls¹ 16). The original position describes a hypothetical situation in which a group of individuals agrees to a fair social contract, an idea that consequently places Rawls in the realm of other social contract philosophers such as Locke, Rousseau, and Kant (Wenar). The individuals within the

² If a just society is not collectively desired, then why should it be established? Rawls acknowledges that it would be impossible to develop and apply a comprehensive moral desire such as justice to society because citizens would never agree upon it (Rawls² 9). This desire, then, must be established at the level of the individual. If human beings inherently long for and seek that which will enhance their quality of life, then it follows that each person must want justice, at least for him or herself. All people, even those who do not practice social justice in the context of others, expect justice in their own lives, and this desire becomes especially apparent when justice is lacking. Thus, as Rawls contends, the establishment of a just society would not be the result of applying a comprehensive doctrine to society. Instead, it would simply result from a common moral sensibility on the level of the individual, and from the longing to better one's personal position in life.

original position are charged with establishing a democratic society of just cooperation by determining the basic rights of all citizens, and to assist in this task, Rawls establishes the “Veil of Ignorance” as a second way to ensure the justice of the contractually derived principles (Rawls² 27).

Like the original position, the veil of ignorance is also hypothetical, and it was instituted by Rawls strictly as a safeguard to ensure that the principles agreed upon in the original position are arrived at in an objective and fair manner. Rawls believes that just social institutions should not discriminate against individuals on the basis of race, gender, or socioeconomic status, and thus the veil of ignorance removes all such facts that are irrelevant to the desired principles of justice. Individuals in the original position know nothing of their personal circumstances, including information about their age, family, race, religion, socioeconomic status, particular talents and abilities, or even their personal health status (Rawls¹ 15 - 16). The individuals only possess a certain degree of common sense and can thus draw general conclusions about the world. They know that each member holds a unique position in society, and they know that their society is one of “modern scarcity,” meaning that although society has finite resources, there is enough to fulfill everyone’s basic needs (Rawls²). Rawls reasoned that by limiting knowledge in this manner, factors of self-interest would be removed and the members of the original position would be able to agree upon a social contract that is fair to all citizens.

Rawls concludes that if the members of the original position agreed to a social contract from under the veil of ignorance, two distinct principles of justice would be unanimously adopted from an exhaustive list of possibilities. The first principle that

would be adopted states that “each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others” (Rawls¹ 53). The second principle of justice that would be chosen is two-fold, and it states that “social and economic inequalities are to be arranged so that they are both (a) attached to positions and offices open to all, and (b) reasonably expected to be to everyone’s advantage” (Rawls¹ 53). Part (a) of this second principle is often referred to as “fair equality of opportunity,” and its focus is on protecting basic rights and liberties. Part (b) of the second principle of justice is often referred to as the “difference principle” and this portion focuses more on protecting the economic rights and liberties of individuals.

In Justice As Fairness, which was essentially a modernization and defense of A Theory of Justice, Rawls goes into great detail about how he logically derived the two principles of justice. Rawls argues that self-interested, rational persons would choose these two principles above all others because the principles support a just society in which individuals are granted as many opportunities as possible despite their particular situation in life. It is important to remember that the members of the original position do not know their status in terms of health, employment, salary, family, friends, education, and more. As such, it makes absolute sense that these individuals would assume they might emerge from the original position under the worst possible circumstances, and plan accordingly for the best possible protection of their interests. Thus the necessity of the first principle, which states that all men are equal and ought to have equal rights to basic political liberties, is incontestable on the grounds that any self-interested individual

would not agree to a society in which he or she might not have equal rights. The logic second principle is similarly irrefutable as its two subsets ensure that the social and economic inequalities that are inherently present in society do not lead to personal incidents of injustice (Rawls² 42 – 44).

In terms of priority, Rawls puts an emphasis on the first principle of justice, primarily because it dictates the “constitutional essentials” (Rawls² 47), and can thus be used as a foundation for structuring remaining societal institutions. Rawls says that justice requires all citizens receive the same basic rights because all people are inherently free and equal beings. Individuals are considered to be free for two reasons, the first being that each person intuitively feels a psychological sense of entitlement to equality (Fleurbaey *et al.*). Secondly, humans are considered to be free agents because they are capable of directing their own lives if given ample resources and opportunities to do so, and the first principle is what grants both ample resources and opportunities to all citizens (Rawls² 18 – 20).

Though Rawls prioritizes the first principle of justice, he does not suggest that the moral values behind the second principle are any less significant. Rawls suggested that these were the most reasonable principles of justice because they are a logical means to inject justice into social institutions, and its conclusions can be easily and intuitively reached. When one considers that Rawls’ principles of justice, which are highly catered to the rights of the individual, were written as a counter to utilitarianism, his theory is all the more compelling. No rational, self-interested individual would choose to live in a society where his or her rights were expendable if they did not contribute to the happiness

of the whole. Rather, such individuals would inarguably prefer to live in a society such as Rawls' where socioeconomic inequalities are minimized and are never allowed to exist at the expense of the individual. After all, inequalities will inevitably arise in societies, and if ignored, these discrepancies will render select citizens unable to exercise their basic liberties in a meaningful way, if at all (Oyeshile 67).

To further demonstrate that his social contract theory is preferable to utilitarian theory, Rawls uses his first principle to show that utilitarianism is inadequate as a system of justice because it does not take the individuality of all persons into account. By striving to attain the maximum amount of happiness for the most people, utilitarianism tends to force individuals to achieve happiness through a single, universal desire. This is unrealistic, however, as happiness is not a concrete entity, and is instead one in which the definition varies immensely from person to person. Rawls thus establishes his first principle of justice as being more reasonable than the moral theories of utilitarianism because it is undeniably irrational to structure a society around the interests of only one group, even if that group happens to constitute the majority. After all, eventually certain members of the protected majority would, by happenstance and random chance, end up as part of the minority; further, when the minority grows large enough, it would become difficult if not impossible to maintain the argument for utilitarianism, and this could easily lead to civil unrest and a lack of societal stability (Glover). Rawls' first principle is thus critical as an alternative to utilitarian conceptions of a just society because even in the face of misfortune, the citizens of a Rawlsian social structure would be morally

obliged to uphold the social structure that was fairly determined in the original position, thereby protecting society from social instability (Mendus).

Rawls' second principle of justice is also superior to the moral theories of utilitarianism because this principle ensures the inherent dignity of the individual is respected at all costs. Both self-respect and respect from others are essential components in the pursuit of one's dignity and liberties, and Rawls's principles of justice ensure that each person is benefitted by social structure, and thereby respected (Oyeshile 65).

Utilitarianism, on the other hand, sacrifices respect for individuals in favor of that which produces the most utility. Rawls argues that in the original position, his second principle would be chosen over a more utilitarian structure because of what Rawls calls the "maximin principle," which is the tendency for humans to desire the best of the worst possible outcomes as a method of self-preservation and dignity. The maximin principle, which stands for maximizing the minimum, is a strategy to be used in situations where the different possible outcomes are known but the probability of each occurring is not. Thus, in terms of the members of the Original Position, each member is aware that he or she may enter life either as someone wealthy or poor, someone sick or healthy, male or female, old or young, educated or illiterate, employed or on welfare. However, the members are unaware of how likely they are to fall into one situation over another, and as such, each member would rationally desire to protect his or her own interests by creating a system of justice that will offer the best and most fair options to everyone, even the least advantaged. This is where the maximin principle comes in, because it establishes the best choices possible for each citizen, even in the face of the worst outcomes in terms

of social disadvantage. The maximin principle itself is thus preferable to utility theory because, as Rawls suggests, inequalities in society can be beneficial as long as they fall within the realm of justice (Oyeshile). For example, basic inequalities can provide the public with incentive for productivity, and allow for a greater distribution of resources to those who use them most wisely. As long as the inherent inequalities result from equal opportunities and are used to the advantaged of the marginalized members of society, Rawls maintains that the two principles derived under the veil of ignorance will promote justice within society³.

In discussing the society established by the original position and the principles of justice, Rawls never specifically mentions the need for healthcare or for other specific rights because it is “too much to expect complete agreement on all political questions. The practicable aim is to narrow disagreement at least regarding...constitutional essentials” (Rawls² 28). Indeed, despite the discrepancies that arise from differing desires, agreements can still be reached on constitutional issues because of what Rawls refers to as overlapping consensus. Overlapping consensus means that citizens can come to the same conclusions regarding justice, even if those conclusions are reached in different ways. Thus, no matter what ones’ political, religious, or other convictions are,

³ To further support this statement, one may turn to the example of the health care system itself. If, for example, a citizen lacks employer-provided health insurance and get sick, that citizen will be forced to pay his or her medical expenses out of pocket. In most cases, this will place that person in tremendous financial debt, which inhibits his or her basic right to pursue a comfortable life through not fault of his or her own. Instances such as these, in turn, introduce blatant injustice into society. To return to the example of the United States’ current lack of national health care, the propensity for good health, or the good fortune not to get sick, break a bone, or be involve in some sort of accident, are all the result of inevitable inequalities that arise naturally. By only providing proper care to insured citizens, these discrepancies that arise from the natural lottery are ignored, and thus impair the unhealthy citizens’ ability to exercise their basic liberties in a meaningful way. Thus, in the interest of protecting the justice and basic liberties of society’s least advantaged, one can logically see why Rawls’ principles of justice are in place.

humans are born with the rational ability to understand what is and is not just. A concrete definition of justice may never be reached, but people are capable of recognizing and respecting what is right, and moral ideologies such as inherent human rights can thereby be supported (Fleischacker).

Despite the fact that inherent human rights can technically be defined via overlapping consensus, it is still difficult, for argument's sake, that Rawls never describes a list of untouchable liberties. Indeed many of Rawls' critics called this a weakness in his argument, and thus when he modified his original theories in Justice As Fairness, Rawls specifies a more realistic methods of assessing what constitutes a basic liberty. His claim is essentially that two different methods can be fairly used to create a list of basic liberties. The first method entails surveying various successful democratic societies and then assessing what common basic rights are present. The second method, on the other hand, involves using thoughtful analysis to consider which basic rights are necessary for the development of free and equal citizens (Rawls² 45). Even from this brief overview, Rawls' two methods seem sound; however, this is as specific as he gets as far as describing particular liberties. In terms of the right to health care, although Rawls never specifically mentions it, he does come to the conclusion that the most basic freedoms are defined by "the rights and liberties specified by the liberty and integrity (physical and psychological) of the person" (Rawls² 44). It is this right to physical and psychological integrity that lays the foundation of the right to health care, and as will be described in the next chapter, many philosophers have used Rawls' ideas to create a just health care system based on this very integrity. Before surveying the approaches of these different

philosophers, however, a philosophical counter to Rawls' argument will be assessed.

Perhaps the most famous counter was made by Robert Nozick, and thus his works will be briefly discussed and the validity of his claims will be assessed.

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Though Rawls' ideas were widely received and embraced by many, their revolutionary nature attracted its fair share of critics, perhaps the most vocal of whom was Robert Nozick. Nozick was a libertarian philosopher who published his book Anarchy, State and Utopia in 1974, partially as a critical response to Rawls' A Theory of Justice (Encyclopedia of World Biography). Like Rawls, Nozick too was a universalist philosopher, meaning that he believed in the existence of universal definitions, but his motivations were different. Rather than focusing on a Kantian ideology with an emphasis on the governed rights of the individual, Nozick approached the subject of justice from a minimalist point of view in that he advocated as little government intervention as possible in the lives of its citizens. In terms of morality, Nozick concludes that government intervention is indeed necessary to protect and enforce what he deems are the three inherent rights: life, liberty, and justice (27 – 28; 268 - 271).

Aside from the difference in opinion regarding government intervention, one of the primary differences between Rawls and Nozick lies in their different classifications of justice. Rawls is often classified as an “end state theorist,” meaning that he holds logically and traditionally derived principles of justice up against society, and in so doing he is able to describe the existing inequalities. Nozick, on the other hand, approaches matters of justice as a “process theorist,” meaning that his concern revolves around

ensuring a just process. As long as the process is just, Nozick reasons that its outcomes must be considered just as well no matter how unfair or unequal they may seem, and this forms the foundation for Nozick's criticism of Rawls' involvement with unjust outcomes rather than processes. Thus, while Rawls strongly advocates just outcomes in society, Nozick believes that outcomes are acceptable as long as they were derived using a just rule of exchange, and as such he places his primary concern on the fairness of societal methods.

A second interesting disparity between Nozick and Rawls revolves around the question of how social goods ought to be distributed. Rawls argues that social goods should be distributed equally and fairly, and he says that unavoidable inequalities are acceptable only if they work to the benefit of society's least advantaged citizens. Nozick, on the other hand, argues that social goods should be distributed on the basis of entitlement, and he claims that as long as goods are legitimately acquired or transferred among persons then the inequalities in distribution are morally justified (151 – 153). Nozick argues that his structure for the distribution of social goods is inherently more just than Rawls' is, and to substantiate this claim, Nozick gives a detailed description of his own principles of justice.

Nozick recognizes that one might question what precisely constitutes the just acquisition of social goods, and to answer this, Nozick names "two principles of justice in holdings: the principle of justice in acquisition and the principle of justice in transfer" (152). The principle of justice in acquisition describes how rightful ownership of material objects arise while the principle of justice of acquisition describes how

ownership can justly be transferred from person to person. The latter principle is morally simple to understand as it excludes actions such as thievery and cheating as appropriate means to gain ownership. The principle of acquisition, however, is more complicated, and to describe it Nozick begins with the Locke's view that "property rights in an unowned object origin[ate] through someone's mixing his labor with it" (174).

Recognizing the gaps in and downfalls of this particular argument, Nozick decipheres Locke's argument as saying that "laboring on something improves it and makes it more valuable; and anyone is entitled to own a thing whose value he has created" (175).

Despite the initial appeal of justice based on labor and entitlement, however, Nozick's theoretical argument simply does not hold up in realistic terms. If a person decides to renovate an apartment building, for example, does this grant rightful ownership of the building to the individual that cleaned it? Realistically, this approach to distributive justice would quickly become too problematic to sustain itself, and thereby cannot be used to achieve justice in the constructs of our society.

Another obvious problem with Nozick's theory of distributive justice concerns how past injustices of good distribution should be resolved in the modern world. The classic example that is often brought up by Nozick's critics is that of land being forcibly taken from the Native Americans during the European settlements of the Colonial times (Corlett 54). Under the principles of acquisition and transfer, the acquisition of American land obviously constitutes a past injustice that must be corrected by returning the land to its rightful owners. However, realizing the impossibility and impracticality of righting all past wrongs in such a manner, Nozick suggests a third principle of justice which he called

the principle of rectification. According to the principle of rectification of injustice, “a *rough* rule of thumb for rectifying injustices might seem to be the following: organize society so as to maximize the position of whatever group ends up least well-off in society” (231). This particular argument would be acceptable if not for one fatal flaw. Earlier in Anarchy, State and Utopia, Nozick makes a point of refuting Rawls’ difference principle (which, again, states that socioeconomic inequalities are only acceptable if they work to the advantage of society’s most marginalized members and if there is an equality of opportunity to all citizens) by reasoning that Rawls’ assumed desire for social cooperation is not strong enough to morally oblige the well-off to assist the worse-off, and vice-versa (Corlett 57 - 59). Nozick also vehemently argues against the difference principle on the grounds that natural inequalities, such as those that may arise from a car accident or a genetically inherited condition, are not the responsibility of the state to correct as they were caused by chance, not by any form of governed injustice. However, placed side by side, Rawls’ difference principle and Nozick’s principle of rectification are eerily similar; to borrow Nozick’s phrasing, both theories advocate correcting pre-existing injustices by maximizing the position of the least-well off members of society. Thus, by adopting the principle of rectification, Nozick not only weakens his own arguments, but he contradicts his own criticisms of Rawls and thereby inadvertently supports Rawls’ ideas of distributive justice.

Nozick’s list of criticisms concerning Rawls’ ideas goes on, but rather than focusing on the differences between their theories, it is important to recognize the similarities. Ultimately, both Rawls and Nozick are liberal political philosophers who, as

universalists, tend to advocate for contractarian theories of justice. According to author David L. Schaeffer, both Nozick and Rawls are credited with

exemplifying the fundamental alternative paths available for liberal political philosophy in the contemporary world. Both authors hold that justice must take primacy over merely utilitarian considerations. Both authors, broadly imitating the social contract tradition of early modern liberalism, derive the principles of justice from a hypothetical, pre-political condition in which human beings are conceived as equal and free (164).

Thus, though Nozick and Rawls take very different approaches in describing how to establish a just society, in the end, both are essentially arguing for the same thing.

Ultimately, both men agree that “the justice of any distribution should be assessed solely by the justice of the procedure that generated it” (Schaeffer 184). Both Rawls and Nozick refuse the constructs of utilitarianism, and both maintain that human beings are entitled to justice in the form of equality, liberty, and the right to pursue their individual goals.

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It is interesting to note that Rawls’ ideas regarding the importance of protecting human dignity and inherent rights have gained nearly unanimous acceptance, even by Nozick who is Rawls’ greatest critic. Indeed, the idea that human beings are entitled not only to justice but to the right to pursue their individual goals is a nearly universal one. After all, assuming as Rawls does that most people are both self-interested and rational, who would reject their right to either of these things? Since the works of Rawls and Nozick, many contemporary philosophers have expanded upon the unifying, albeit general, idea that humans possess the inherent right to justice, equality, dignity, and

pursuit of one's goals. Interestingly, several of these contemporary philosophers have made it a point to specifically include health care as a right under their own theories of justice, a move that is undeniably logical. After all, without good health, how can one genuinely be free to pursue any other inherent rights? Health is necessarily the precursor to all other rights in life, whether inherent or government mandated, and thus the right to health care is a nonnegotiable concession. In the next chapter, select applications of Rawlsian justice to health care will be surveyed, and the real-world implications of each will be thoughtfully discussed.

*Chapter 2:
Applying Rawlsian Justice to the Realm of Health Care*

Several contemporary philosophers have tried to apply Rawlsian justice to problematic areas in modern society, health care being one of the most common. Though Rawls never specifically mentions health care in his criteria for a just society, the design of Rawls' social contract leaves little doubt that fair health care distribution would be required in a just society. After all, members who are in the original position under the veil of ignorance ought to be concerned with securing their best possible future, one that is based on justice via the equal distribution of social goods because none of the members possess an awareness of their extenuating circumstances. As such, it would be hard to imagine any of the members in the original position disagreeing with a health care system that allowed each citizen to access quality, affordable medical care. If the members or their families got sick, would they not all want access to the same treatments regardless, say, of their socioeconomic backgrounds? Theoretically, it is not difficult to use Rawlsian justice to make the argument for affordable healthcare; what is difficult, however, is determining where to place health care within Rawls' system of thought. Since Rawls, a number of philosophers have attempted to resolve this predicament, each in his own innovative way. However, with each ideal solution come practical problems; whether those problems can be overcome is the real question, and is the one that will be surveyed below.

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One contemporary philosopher who has applied Rawls' ideas of justice to health care is Norman Daniels. In applying Rawlsian justice to health care, Daniels argues that health care is a primary good and therefore it must be fairly distributed amongst citizens (Daniels²). Primary goods are the "various social conditions and all-purpose means that are necessary to enable citizens to adequately develop and fully exercise their two moral powers and to pursue their determinate conceptions of the good" (Rawls² 57), and Rawls uses them to determine who qualifies as the least advantaged members of society. Thus, according to Daniels, by allowing citizens to pursue their determinate conceptions of good, primary goods are what allow citizens to advance justice and therefore they stabilize Rawls' just society.

To prove that health care is in fact a primary good and that it must be equally accessible to all citizens, Daniels turns to Rawls' principle of fair equality of opportunity. This principle is a subpart of Rawls' second principle of justice, and it says that social inequalities must be attached to offices and positions that are accessible by all qualified citizens (Rawls² 42). According to this principle, a just society is obligated to protect the equality of opportunity among its citizens, and if a person is unhealthy, then it follows that he or she does not have equal opportunity. Indeed, Daniels argues that if the members in the original position consented to Rawls' principle of fair equality of opportunity, then equal provision of health care would be obligatory; this is so because otherwise, the principle of equal opportunity would be breached, and injustice would thus be introduced into society.

To this basic argument, Daniels provides several stipulations while maintaining that equal provision of health care is obligatory in a just society. In Just Health: Meeting Health Needs Fairly, Daniels says that “disease restricts opportunity; basic health care counters that restriction” (Daniels² 340). However, he specifically emphasizes the word “basic”; Daniels says that applying Rawls’ principle of fair equality of opportunity does not mean a socialist health care system is the answer. To fulfill Rawls’ principle and work towards a just society, only the medical afflictions that hamper one’s ability to pursue equal opportunities must be provided for. Thus, under Daniels’ argument, equal access to health care does not mean that society is compelled to present each citizen with unlimited medical services. Cosmetic procedures, for example, typically do not impair one’s ability to pursue fair and equal opportunities, and thus they would not be provided under this version of a Rawlsian health care system. To account for these discrepancies, Daniels proposes a multi-tiered health care system in which the most basic needs would be equally provided for, and the cost of any additional procedures would remain the responsibility of the individual.

Daniels suggests the use of an objective system to decide what constitutes a basic medical need. He feels that the “normal opportunity,” or that which can “reasonably be expected in one’s life plan,” ought to be calculated for all groups within a society (Daniels² 34). He further reasons that the health care needs that comprise the normal opportunity of each demographic must be determined via Rawls’ veil of ignorance; only then will discrimination be eliminated, thus allowing the most basic medical requirements to be justly established. Daniels goes on to describe some contemporary examples of

discrimination in the health care system, several of which result from what Rawls calls the “natural distribution” or the “natural lottery.” The natural lottery refers to chance events that result in inequities among citizens. In terms of health care, these inequities might include genetic disorders, birth defects, or accidents, all of which would result in unequal distribution of health. Obviously, to discriminate against those who did not win the natural lottery would be unjust. For a society to determine the opportunities of an individual based on chance alone is immoral, and thus natural discrepancies must be accounted for. As Rawls says, “the natural distribution is neither just nor unjust; nor is it unjust that persons are born into society at some particular position. These are simply natural facts. What is just and unjust is the way that institutions deal with these facts” (Rawls¹ 225).

Though Daniels defends his position well, several problems with his approach have been identified. In an article entitled “Opportunity and Health Care: Criticisms and Suggestions,” Lawrence Stern, who is an associate professor of philosophy at the University of Puget Sound, has offered several criticisms in regard to Daniels’ work. One of the primary problems that Stern sees is that in reality, the notion of normal opportunity is subjective in and of itself. Even under the veil of ignorance, who is to say what can reasonably be expected in the life plan of a particular group, especially if the determining parties have not practically experienced that demographic? Furthermore, who is to say what can reasonably be counted as a minimum health care need? Stern objects to Daniels trying to make the subjective objective, and though Stern finds Daniels useful in theory, his ideas are realistically unlikely to work.

Daniels' application of Rawls' natural lottery to the health care system is also problematic. Daniels claims that all medically-related inequities that diminish one's fair and equal opportunities must be resolved through the just provision of health care. Even if these inequities are genetic, say, or arise by chance, society is obligated to restore equality of opportunity among its citizens at almost any cost. However, this particular application of the natural lottery contradicts Rawls' own definition of it in terms of the difference principle. In A Theory of Justice, Rawls says that the difference principle "does not require society to even out handicaps as if all were expected to compete on a fair basis in the same race. Rather, it would allocate resources...so as to improve the long term expectations of the least favored" (Rawls¹ 101). Though in this statement Rawls is referring to economic inequalities rather than health-related ones, the underlying sentiment remains the same: society is not required to even out handicaps among its citizens as long as the welfare of the least advantaged is protected. Daniels' argument that society is obligated to correct medically-related inequities, then, is rendered far less credible; if a medical condition is not severe enough for the patient to be considered among the "least advantaged" (which is admittedly a subjective term in and of itself), then a Rawlsian society holds no responsibility in terms of providing treatment.

Daniels' theory also seems lacking in terms of realistic applicability because he fails to adequately address the cost of supplying the health care needs of society. Assuming that the society's monetary source is finite, inevitable questions surrounding the allocation of financial resources arise. How important is health care, for example, in relation to other state-sponsored endeavors? At what point should state resources stop

being allocated to health care, especially if additional funding comes at the expense of other public needs such as education (Stern 344)? Daniels briefly addresses such concerns by warning against a health care system that is a so-called “bottomless [financial] pit” (Daniels² 173). He says that health care costs should remain reasonable and that they certainly should not undermine other societal undertakings; this qualification is vague, however, and thus does not make for a realistic health care system. How does one allocate limited resources in a just manner while avoiding the bottomless pit? Stern illustrates the moral difficulties that would come with this by using the example of terminal dialysis patients who require costly and consistent medical treatments. In Daniels’ health care system, would it be more just to use the available resources to save the lives of the terminally ill, or would the utilitarian approach of using the money to “renovate the nation’s entire dental system,” for example, be more just (Stern 341)? The latter approach would likely save money and avoid the bottomless pit, but it would mean allowing the dialysis patients to die, an act that hardly seems just. Stern’s concern is that if Daniels’ system were applied to the real world, medical renovation and technology would be sacrificed as long as the basic health needs of any citizen were compromised (Daniels² 343). Medical problems would only be relieved on an individual basis, not eradicated from mankind as a whole, and thus it seems that the maintenance of a just medical system would result in nothing more than the bottomless financial pit that Daniels warns of (Daniels² 173).

Another problem with Daniels’ application of Rawlsian justice to health care lies in the argument that equal access to health care only covers basic medical needs (Stern

345). In theory, this facet of Daniels' argument is valid; why would unnecessary procedures be provided for under the terms of a just society? Most cosmetic procedures, for example, do not remedy physical impediments, do not enhance the equality of one's opportunities in life, and thus are not considered a basic medical need. But where is the line between basic and necessary drawn? Would a cosmetic procedure that repairs a cleft palate or other physical deformity be a basic provision under Daniels' just health care system? After all, such a procedure would counter an inequity of the natural lottery. Furthermore, most people would argue that a person's mental health is just as important as physical health in maintaining an equal ability to pursue life's opportunities, and thus some cosmetic procedures should be considered a basic health care need. If a child is born with a cleft palate, for instance, who is to say that deformity will not affect his or her self confidence? If self-confidence is drastically affected, then perhaps that child will not be able to socially function according to normal standards, and therefore will not experience a fair equality of opportunity. Obviously, by Daniels' standards for just health care, the cosmetic procedure for this child would have to be permitted because it would offset a social inequality that was introduced by the natural lottery.

Allowing such necessary exceptions to the typical list of basic needs, however, introduces further problems for Daniels' argument. Using the same example, just because a cleft palate affects the confidence of one child does not mean that it will have the same impact on everyone who is born with this handicap. There must be an objective measurement, then, to determine if one's equal opportunities in society are diminished by the cleft palate, which would in turn fairly determine who qualifies for cosmetic surgery.

The problem, of course, is that no such objective measurement exists, and even if it did, there would be no limit on what medical procedures are considered basic health care in terms of protecting the fair equality of opportunity. After all, if the argument for fixing a cleft palate can be made, couldn't the same argument be made for a person whose large nose negatively affects his or her confidence? Or what about the woman who desires a breast augmentation, claiming that her body limits her opportunities in comparison with others? Though perhaps good in theory, it is clear that Daniels' multi-tiered health system is not feasible when it comes to real-world applications because there can be no objective measure of what medical procedures are necessary to maintain a just health care system.

Finally, the feasibility of Daniels' just health care system is precluded by a critical difficulty in Rawlsian justice itself. This difficulty lies in the question of whether the members of the original position would comply with or even respect the two principles of justice once they emerged from behind the veil of ignorance into the real world. Using health care as an example, under the veil of ignorance the members of the original position are unaware of their health, their medical history, and even their ability to pay for health care. This lack of personal awareness obviously provides an incentive for the members to adopt an egalitarian system in terms of health care distribution, and indeed this is theoretically the most just approach to the health care dilemma. However, once the members emerged from the veil of ignorance and learned that they were either in perfect health or were wealthy enough to care for themselves, what incentive do they then have to adhere to the egalitarian system of health care distribution? In reality, the

incentive to comply with the principles of justice can disappear as a sense of self-awareness returns, and this problem of voluntary acquiescence with the justly derived principles remains an insurmountable problem, both for Daniels and for Rawls.

Overall, Daniels' application of Rawlsian justice to the health care system is commendable in theory. He applies Rawls' notion of fair equality of opportunity to ensure that no citizen is disadvantaged by a medical condition, and his ideal health care system provides the most basic and essential medical treatments to those who are in need. However, Daniels is too idealistic and his proposed health care system is not realistically applicable to the institutions in modern society. However, even though Daniels' theory is flawed, his work is certainly a step in the right direction; Daniels clearly illuminates the disparities in opportunity that occur when a person is affected by a disease that is unaffordable to treat, and this unfortunate truth is one that must be corrected if we are to achieve a just society.

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Ronald M. Green is another philosopher who uses Rawls' ideas to justify the need for universal health care (Green 247 – 261). As previously stated, the topic of health care is noticeably lacking from Rawls' argument for a just society. Rawls briefly mentions health in A Theory of Justice as a "primary natural good," but as he primarily aims to regulate the distribution of social goods, the specifics of maintaining health are overlooked (63). Green tries to rectify this oversight by approaching the topic of health care from the perspective that it is a commodity that should be considered a primary social good rather than a natural good (Green 249). Green says that logically, "securing

health care is a vitally important, prudential concern, more important than income, and nearly as important as the basic civil liberties (Veatch and Branson 116 – 117). As such, Green argues that the members of Rawls' original position would establish not only the two principles of justice, but would establish a third principle as well that specifically dictates the distribution of health care in a just society (Veatch and Branson 112).

Green's third principle of justice states that access to health care should be provided to all citizens, regardless of income, and specifies that "each member of society, whatever his position or background, would be guaranteed an equal right to the most extensive health services the society allows" (Veatch and Branson 117). Green never describes exactly what health services would be socially allowed, but he maintains that such issues would be fairly determined in Rawls' original position under the veil of ignorance. The most interesting part of Green's argument, however, is the way in which he incorporates his third principle into Rawls' existing theory of just societies. Green places his principle of just health care distribution "lexically prior to Rawls' difference principle," meaning that he feels just health care distribution is more important than Rawls' principle of minimizing inequalities so as to benefit the least advantaged. However, by flippantly rearranging Rawls' carefully established lexical ordering of the two principles of justice, Green is not only undermining his own argument, but that of Rawls as well (Moskop 332).

By altering the priority of the principles, Green changes the structure of Rawls' original argument for a just society. Obviously, one can assume that Rawls carefully structured his argument and his principles of justice in a way that cannot be disturbed

without also disturbing the essence of his ideas. Indeed, Rawls spends much time explaining how he logically arrived at the two principles of justice, and why their priority arrangement is important. Through Green's application of Rawlsian justice to health care not only destabilizes the logic Rawls' original argument, but Green never specifically states what his third principle entails, and unfortunately, such details are not self-evident from Rawls' original position. This flaw in and of itself unravels Rawls' argument because it fails to follow the logical progression from original position to the specific principles that Rawls tried so hard to establish, and therefore Green's application of Rawlsian ideas seems inherently flawed.

More importantly, however, Green's addition of a third principle of justice is troublesome because of its specificity. Rawls intentionally describes broad principles of justice to ensure that his ideas retain a degree of realistic applicability (Wenar). He is careful not to specify the basic needs in his argument because Rawls feels it will allow for a "proliferation of principles," the list of which cannot be comprehensive, and therefore cannot be feasible (Moskop 333). The specificity of Green's principle of justice is also problematic because it creates tension among the three principles. For example, in A Theory of Justice Rawls says that the social contracting parties will favor a system of justice in which the least advantaged group is most benefitted. But when Green's principle identifies a specific right, then the question of which social group will be identified as the least advantaged must be addressed. In terms of health care, who is the least advantaged? Is it a position that can generally be defined as the hungriest citizens or the poorest? Or does the definition shift to reflect a particular right, so that in this case

the least advantaged would encompass the sickest individuals? When paired with Rawls' original two principles of justice, the specificity of Green's third principle creates more problems than it solves, and indeed it prevents the distribution of health care as a social good under a system of Rawlsian justice. After all, Rawls' distributive maximin principle is no longer relevant if the least advantaged members of society cannot be identified, and thus by adding a third principle that specifies the advantages of a just society, Green renders an important piece of Rawls' ideas meaningless.

A final flaw in Green's argument is that he remains vague in terms of what the right to health care entails. Green says that health care should be provided to all citizens, but he never asserts that citizens have the right to unlimited care. Because Green never asserts this point, one can assume that his third principle of justice holds certain restrictions. Unfortunately, though, Green remains ambiguous in terms of what medical procedures are accounted for, and what treatments must be procured by the individual. This is problematic not only in that it prevents the realistic application of his ideas, but also in that it raises the question of what the tradeoffs of health care are in a just society. Green argues that societies may forgo certain nebulous aspects of health care in favor of economic benefits, which of course brings Rawls' maximin rule into question (Veatch and Branson 121). Under Green's just society, can aspects of health care be relinquished even if it does not benefit society's least advantaged? Perhaps because it is unclear who society's least advantaged are, Green argues that yes, such relinquishments are acceptable and he uses the example of forgoing the treatment of terminally ill patients in favor of putting those resources toward research that would prevent further cases of the illness

(Veatch and Branson 119 – 123). However, this bears an unsettling resemblance to utilitarianism; Green is essentially saying that in cases of health care, it is just to ignore the ill if the resources can be better used to promote the greater good. Because utilitarianism is precisely what Rawls tried so hard to avoid, it seems that Green's utilitarian application of Rawlsian justice to health care is slightly distorted, and mostly ineffective.

In essence, Green's application of Rawlsian justice to health care is incomplete. Green establishes the theoretical argument for the need of universal health care, but like Daniels, Green's ideas are unrealistic and without practical application. Green's argument is additionally ineffective because rather than applying Rawlsian justice to health care, Green instead alters Rawls' ideas to fit his own agenda. By changing Rawls' basic argument, Green undermines the integrity of his own ideas of how Rawlsian justice should be applied to health care. His ideas are not an application of Rawls' justice as fairness as he originally claims, but instead seem to be Green's own restatement of Rawls' ideals.

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A third and final contemporary philosopher who has applied Rawlsian justice to health care is John Moskop (Moskop 147 – 366). Moskop maintains there ought to be a human right to health care, and he reaches this conclusion in part by critiquing how others, including Daniels and Green, have applied Rawls' theories to health care. For example, Moskop is highly critical of Green's application of Rawlsian justice to health care, stating that Green's greatest shortcoming is his alteration of Rawls' original ideas.

By adding a third principle of justice and prioritizing it above Rawls' second principle, Green destroys the foundational stability and rationality of Rawls' argument (Moskop 333). Moskop also objects to the fact that Green's argument renders the maximin principle useless. Without the maximin principle, it becomes easy to overlook the needs of the marginalized, and thus Moskop feels that Green invites unstable, and potentially utilitarian, principles into his idealized just society. Regarding Norman Daniels' application of Rawls to health care, Moskop is far less critical and he applauds the fact that Daniels does not change the foundation of Rawls' ideas. Moskop feels that Daniels' argument falls short, however, as it fails to specifically establish the universal human right to health care (Moskop 334).

Though Moskop does not go into nearly as much detail as Daniels and Green did, he still manages to effectively argue the point that health care should be considered a fundamental human right. Moskop builds his theory around what he feels are the flaws of Daniels' and Green's ideas, and he thus begins by approaching the provision of health care as a fundamental social good. According to Rawls, who of course never assigned such a classification to health care, if social goods such as income are adequately provided for, then natural goods like health care can be pursued by the individual as necessary to fulfill his/her life plan (Rawls¹ 270 – 277). Moskop agrees with Rawls' logic, but counters that in reality, moral theory must be used to establish the right to health care in a different way. Instead of relying on individuals to provide themselves with health care, Moskop instead shifts the responsibility of health care provision to society. Moskop defends this move by reasoning that regardless of the predetermined

capacity, health care must be provided to citizens equally in order to maintain justice. Since the equal distribution of health care cannot be ensured on the level of the individual, it becomes the responsibility of society to fairly provide such a commodity (Moskop 330).

Moskop further defends his argument by quoting the United Nations' 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" (Article 25). Moskop debates whether this right to health care is a negative right or a positive right in terms of whether grants the right to respectively pursue or receive health care. Using a logic that is contingent on the acceptance of Rawls' theories, Moskop decides that health care is a positive right⁴ in that humans ought to receive rather than pursue it.

To demonstrate that health care is a positive human right, Moskop acknowledges the argument that health care is a negative right, and then discredits this argument. The argument that health care is a negative right first arose in response to Rawls' description of the natural lottery in A Theory of Justice. Rawls says that the inequalities that arise by chance or through the natural lottery should be "nullified because they are arbitrary from the moral point of view – no one deserves what he or she gets" (Moskop 335). However,

⁴ Several philosophers are careful to make a distinction between positive rights and negative rights, both of which are considered to be passively acquired. By definition, a positive right entitles an individual to receive a particular good or service. For example, most consider food and shelter to be positive rights, and thus if an individual is unable to secure for him or herself what the right specifies, then the government (or a similar authority) is obligated to do so. A negative right, on the other hand, means that an individual is entitled to personal freedom and a lack of interference from external sources. For example, a unanimously considered negative right is the right not to be robbed, and again the duty of protecting negative rights typically falls to governmental authority (Waldron 44, 89-97).

many Rawlsian opponents, including Robert Nozick, object to this conclusion on the grounds that such inequalities are morally arbitrary (Nozick 225). Naturally occurring inequalities are certainly unfortunate and inopportune, but that does not necessarily render them unjust by social standards; indeed, because society was not responsible for inflicting these inequalities, society is not responsible for correcting them (Engelhardt 115 - 117). Thus, because the effects of the natural lottery do not reasonably require rectification by society at large, the argument can be made that health care is a negative right.

Moskop acknowledges the rationality behind such an argument, but he counters it by exploring a different application of Rawls to health care. Moskop suggests that health care is “a social ideal when it contributes importantly to human welfare through its significant impact on health and disease” and that it is the “proper function of government to enhance the welfare of citizens” (336). On this basis alone, civilized societies should provide health care to their citizens, though the way in which medical care is distributed will vary. Moskop claims that once the Rawlsian perspective of justice establishes the need for a just society, there are two additional principles (not to be applied to Rawls’ argument as Green’s principle was) that ought to be used in guiding the realistic allocation of resources, including health care. Moskop’s first principle states that societies should function in the most “efficient, inclusive and secure means” possible (337). The second and simplest principle states that to maintain justice, “similar provision should be made for similar needs” (337). Rawls’ definitions of fairness and a just society are perhaps among the most realistic and comprehensive theories available,

and must be used to rationalize the need for an equal distribution of necessary commodities. However, once this need is established, Moskop believes that his own principles will guide the realistic and differential distribution of public resources such as health care in the fairest way possible (335 – 337).

The primary flaw in Moskop's application of Rawlsian justice to health care is that Moskop's ideas are incredibly broad. Moskop clarifies that the right to health care cannot be decided on the basis of morality alone, nor can it be decided based purely on procedural policy. Instead, the two extremes must be reconciled in a way that will be unique to each society, and though Moskop's lack of a universal answer is philosophically frustrating, it is perhaps the most realistic conclusion that can be reached. While there may not be one collective solution for the inequalities of the world, there are some basic tenants that nearly all human beings can agree upon. First, humans inherently desire that which will enhance both their present and future quality of life. Second, most would agree that in the case of illness or injury, adequate health care is necessary to maintaining this decent quality of life, both presently and in the future. Finally, nearly everyone can agree that the intrinsic moral values that span demographic boundaries point to the establishment of a just society. It is not the need for a just world that is problematic; rather, it is the method by which this global society is produced that poses the dilemma. Thus, although Moskop eloquently reaffirms the need for a more just system of health care distribution, he does little in terms of describing how such a system will be attained. Unfortunately, however, it is the latter that society needs and as such, the solution to the health care dilemma must be found elsewhere.

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John Rawls' theory of a just society is not entirely comprehensive, nor is his theory without fault, as his critics would whole-heartedly agree. However, Rawls' ideas are unique in that his careful application of logic allows the reader to not only follow his ideas, but to arrive at the same conclusions by reason and rationality alone. Though Rawls fails to specifically account for health care in his books, Rawls' description of the original position is enough to demonstrate that health care is a much needed resource that ought to be fairly distributed among all citizens. After all, if one put him or herself in the original position, this conclusion regarding equal and adequate health care becomes obvious. As humans, everyone wants to ensure their own health and well-being, as well as that of their friends and family members. If placed in a position where one's health status was unknown, it is reasonable to believe that one would protect against any health-related inequalities by ensuring universal access to adequate medical care.

Though Rawls' theories are enough to prove the need for a just society and for the distribution of health care, his ideas remain idealistic in their lack of applicability. As the theories of Green and then Daniels show, the applications of Rawlsian justice to health care are often problematic and unrealistic. Still, the existence of such theories demonstrate that there is an overlapping consensus regarding the need for universal health care in a just society, and Moskop's non-traditional approach to the problem seems to provide the best solution. If nothing else, Moskop provides the "strong moral grounds for creating a legal right to health care in societies which are committed to providing for

their citizens' basic needs and have the resources to do so," and in all reality, individuals can ask for nothing more (Moskop 337).

*Chapter 3:
Universalism, Communitarianism, and the Quest for a Reasonable Solution
to the Problem of Health Care*

Though Rawls' theory of justice clearly establishes the "moral grounds for creating a legal right to health care," one of his most apparent shortcomings is that these moral grounds are theoretical, and are extremely difficult to apply to the real world, especially when it comes to a topic as complicated as that of the health care system (Moskop 337). Several academics, including Daniels, Green, and Moskop, have attempted to make this transition from theory to practice using Rawls' conception of a just society, but all have ultimately faltered. Though their specific theories tend to be more practically applicable than those of Rawls, a realistically workable and just health care system has yet to be established. Recognizing this particular deficiency, Margo J. Trappenburg, a Dutch political scientist and professor, wrote an article entitled "Defining the Medical Sphere" in which she responds to the question of how Rawls' just society can be applied to global health care. Though Trappenburg certainly is not the first to attempt to answer this question, her ideas are unique in that rather than drawing exclusively from Rawls, Trappenburg instead uses Michael Walzer's communitarian notions of justice to devise her own solution to the problem of health care.

Trappenburg begins her argument for distributive justice in health care with Rawls' idea that the "results of the natural lottery are terribly unfair and should be compensated as much as possible" (Trappenburg 416). Trappenburg calls it an exceptionally attractive notion, and acknowledges its many potential benefits; however,

at the same time, she also acknowledges its many potential faults. Though she briefly mentions Robert Nozick and his scathing critique of Rawls' work, Trappenburg does not give his complaints much credence simply because she finds the same major fault within both philosophical theories. Both Rawls and Nozick take a universalist approach to justice in that they assert justice cannot be found within the boundaries of the modern social structure, but rather must be found outside of it. Though Rawls and Nozick advocate different methods of attaining such justice externally, both men still approach it from a universalist perspective, and ultimately it is this to which Trappenburg objects.

In applying Rawlsian justice to health care, Trappenburg objects to a purely universalist approach simply because it is very difficult to extract such ideas from the theoretical realm and apply them to reality. To approach justice from a universalist theory is "both an advantage and a disadvantage. It is an advantage because it enables the philosopher to criticize society's morals and to provide a rational alternative theory of justice. It is a disadvantage because the philosopher's fellow citizens have every right to disregard his theoretical system of justice" (Trappenburg 417). This particular disadvantage becomes especially problematic when Rawlsian justice is applied to health care, for as Trappenburg suggests, why would a perfectly healthy individual prefer to negotiate just health care distribution in the original position when he or she is "sure to get a much better end of the bargain in every day life" (417)? For example, while one who is discussing health care under the constraints of Rawls' original position may agree to limit costly procedures for the elderly, it is unlikely that the same person will consent

to uphold the same position when the procedure is being denied to his or her elderly parent, or even to that particular individual.

Trappenburg readily acknowledges that such conflicts may occur, stating that “the main disadvantage of the Rawlsian line of argument is that it works best as long as one remains in the original position” (421). However, in terms of health care, it is debatable as to whether or not deciding upon a just system in the original position would laterally translate into a just reality. Realistically speaking, for example, could a medical professional deny a patient care on the grounds that, had the patient been in the original position, he or she would have consented to this lack of treatment (Trappenburg 421)? Hypothetically the answer is yes, the patient could in fact be denied medical care on these grounds. But in reality, the answer is not quite as clearly defined and when someone is actually sick or even dying, how can a doctor adhere to an abstract philosophical ideal when the nature of his very profession calls for him to save lives? Indeed, such predicaments would surely raise a conflict of duty for the doctors involved, and thus demonstrates yet again that universalist philosophies such as Rawls’ are very difficult to translate into reality.

Trappenburg further argues that while an issue may have a definite answer within the constructs of Rawls’ hypothetical society, that answer may not be quite as applicable in real life, especially in terms of resource distribution. For example, it is relatively easy to imagine the members of the original position deciding on universal health care under the veil of ignorance. Though this is an easy concept in theory, a necessary question arises: how can this theory be legitimately translated into reality? Modern societies do

not have inexhaustible funds to pour into a health care budget, and as such, only select medical treatments could realistically be accounted for under a universal health care system. But who would decide which treatments were available? More importantly, how could this be done fairly? As these difficult questions indicate, the transition from Rawlsian theory to modern reality raises more problems than perhaps it solves, and this is certainly a formidable flaw worth noting.

In a second example of the pitfalls that would arise were Rawlsian justice directly applied to health care, Trappenburg revisits Rawls' maximin principle, which states that inequalities in society must be arranged so as to promote the well-being of the least advantaged members (Rawls¹ 328). While an initially attractive theory, Trappenburg asks how the maximin principle would actually play out in, say, an emergency room (420 – 421). When triaging patients and deciding who to treat first, would the least advantaged be selected according to maximin principle? If so, would the least advantaged be defined by medical condition? Social standing? Economic status? Though Rawlsian justice remains desirable in theory, it has once more proven to be difficult to apply directly to reality, and that Rawls' difference principle cannot be realistically used to allocate health care.

It is important to note, however, that these objections are not to say that Rawls' work or the work of universalists in general should be completely disregarded or undermined in the slightest. To the contrary, Rawls' theories of justice are of particular importance for several reasons. First, through reasoning alone, Rawls was able to make the intellectual leap from his own reality to a hypothetical world. Though this may not

seem like a noteworthy accomplishment, it was in this theoretical leap that Rawls was able to provide solid reasoning for a just society. The abstract nature of Rawls' ideas tended to either resonate with or incense his readers (Audard), but either way, he proved to be thought provoking; indeed, when it comes to an issue as complex as justice, this alone is an achievement in and of itself. Finally, Rawls' work continues to be an important and influential part of political philosophy today because of the thoughtful reasoning that Rawls used to demonstrate the need for a just societal structure. His rationality continues to resonate with readers today, and his ideas have unquestionably played an invaluable role in establishing the need for justice in modern societies to ensure their continued success and survival.

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In recognizing the magnitude and importance of Rawls' theories in establishing the need for a just society, Trappenburg uses his ideas as a springboard for applying the hypothetical reasoning for justice to reality, and she does this specifically in terms of health care. Trappenburg's approach is distinct from others who have attempted the same feat in that she recognizes there simply is not a single approach that can be used to decisively translate a notion into reality. To compensate for this fact, Trappenburg chooses to move away from Rawls' universalist philosophy and survey communitarian philosophy, an interesting decision considering the two approaches are often depicted as polar opposites (Bell 33). Communitarian philosophy is typically thought of as a conservative alternative to the universalist and libertarian ways of thought, and its adherents "do not invent or design systems of justice; they rediscover normative

traditions within their community” (Trappenburg 418). It is for this approach, however, that communitarian philosophers are most commonly criticized, for “modern society, the critics argue, is much more heterogeneous than communitarian philosophers seem to acknowledge” (Trappenburg 418). Communitarian philosophers tend to assert that the community should be considered the foundation for the derivation of individual beliefs, and as such, Rawls’ belief that justice could reasonably be established as a universal truth was strongly refuted (Etzioni). Instead, the argument has been made that “justice” is a malleable term, the definition of which will differ from place to place based on the existing traditions of society (Etzioni 23). Indeed, it is from these traditions of society that communitarians argue standards of justice must be drawn, and this rather vague approach to justice has drawn a great deal of criticism, especially in terms of the practice of communitarian philosophy.

While in theory it is easy to say that lessons can be learned from the past, the true dilemma lies in deciding which lessons can be not only beneficial to modern society, but pragmatically applied to it. Critics of communitarianism often object to even the attempt at practical application, and the most common argument against communitarianism is the one that normative traditions and institutions no longer exist for a reason. According to Bell, critics often maintain that once the ancient practices rightfully disappeared, they were replaced by more modern and appropriate ways of life. Communitarian philosophy is also routinely criticized as being a more modern form of communism as it emphasizes the interest of the community over the interest of the individual (Bell 149 – 151). Though the claim that communitarianism and communism are similar is erroneous and

the two actually have little in common, the stigmas associated with being correlated to communism have been enough to inhibit the social progress and acceptance of communitarianism (Bell 151 – 152). As such, it is unsurprising that communitarianism has yet to take hold in terms of application to current society, and all the more interesting that Trappenburg decides to apply such an approach to the modern health care system.

Ironically, the most common and most inescapable disadvantage that communitarian philosophy faces is the same one that challenges universalist philosophy. Because the goal of both schools of thought is to advocate theoretical solutions to concrete modern problems, both universalists and communitarians are responsible for convincing their peers that their ideas do indeed describe how one ought to live. “Political philosophy,” Trappenburg says, “is not like mathematics; one cannot prove the rightness of one’s principles of justice. A theory of justice cannot be more than convincing” (419). Universalist philosophers must convince others by objectively defending their values of justice whereas communitarians prove the worth of their ideas by drawing evidence from the history of long-standing tradition. Whichever approach is taken though, a philosophical theory of justice is only as useful as its persuasiveness and credibility and in the end, a particular approach to justice is only worthwhile if it can provide realistic solutions to concrete problems (Trappenburg 418 – 419).

In applying philosophical theories to concrete problems, Trappenburg suggests that communitarian philosophers inevitably fall into the “the communitarian dilemma.” She asserts that the very nature of the communitarian ideals requires all adherent philosophers to choose “among three possible philosophical positions, all having serious

disadvantage” (419). The first such position that a communitarian might choose is that in which the philosopher promotes undisputable, common social values as the “essence of justice” (419). However, there are several disadvantages to taking this approach to communitarian philosophy. First, critics will argue that philosophers should not promote standing institutions as the essence of ideals such as justice; rather, philosophers ought to spend their time critically assessing existing social arrangements in an effort to improve them (Trappenburg 419). Finally, this particular position is difficult to legitimize because this approach allows any practice to be legitimized as just, and this could easily lead to the corruption of social standards such as justice, liberty, ethics, and more.

The second position that a communitarian philosopher can choose entails the active promotion of normative traditions (Trappenburg gives Aristotle’s system of virtue ethics as an example) based on the assumption that ancient ways reflect a deeply embedded and shared understanding among a nation’s citizens, and therefore must be just. If a philosopher were to choose this route, however, he or she would have to prove that the ancient tradition truly did reflect an underlying consensus about that particular topic, and to do this, the philosopher would have to take on the daunting task of defining precisely what constitutes a shared understanding. Furthermore, to choose this second position, the philosopher would be required to prove that the ancient tradition was simply lost rather than eliminated for a reason, i.e. in favor of newer and better approaches (Trappenburg 419). Though this position certainly holds philosophical potential, the scope of its required defense quickly becomes too complex and immense to produce a reasonably sound theory of justice.

The third and final position that a communitarian philosopher can support is to advocate the idea that “some future just society lies hidden in today’s shared understandings” (Trappenburg 419). This position is similar to the second one in that both are focused on rehashing normative values and applying them to modern society, but the downfalls of this third position differ slightly. To argue that a just society lies hidden in today’s shared understandings not only requires the philosopher to describe the utopian society, but it also demands that the philosopher demonstrate why one particular vision of philosophical perfection is superior to another. Obviously, the disadvantages that come with each of these three positions are difficult if not impossible to overcome, and this fact alone may have largely contributed to the lukewarm reception that communitarian philosophy has experienced in modern society. However, the idea that the current structure of American society exists for a reason is inescapable. Recognizing this, Trappenburg suggests that perhaps there really is something to exploring normative traditions, just not to the extent that communitarians would argue for.

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To provide a solution for the problems faced by the universalists and the communitarians, Trappenburg draws on the work of Michael Walzer, a modern American political philosopher (Walzer xi). Though he has never classified himself as such, Walzer’s critics have often called him a communitarian, and indeed several of his principles are reminiscent of communitarian thought (Bell 97). In his book Spheres of Justice: A Defense of Pluralism and Equality, Walzer’s primary argument is that in a just society, different social goods such as wealth, education, punishment, and socioeconomic

status cannot be fairly appropriated until an understanding is reached regarding “what the goods mean, what parts they play, how they are created, and how they are valued...just distributions flow out of and are relative to their social meanings (Walzer 24). To come to an understanding of social goods, Walzer claims that we must reintroduce morality into modern society, and to do this he draws on both Christian and Aristotelian ethics.

In the past, Walzer says, morality has dictated that society should be divided into several different “spheres,” or realms. He identifies eleven separate spheres, and claims that the “walls that separate these institutions and social practices are the foundation for shared morality” (Trappenburg 418). According to Walzer, there exists a sphere of social membership, a sphere of security and communal provision, a sphere of fiscal wealth and commodity distribution, a sphere of office and professionalism, a sphere of work ethic, a sphere of education and academia, a sphere of leisure and free time, a sphere of love and family, a sphere of religion and divine grace, a sphere of public recognition, punishment, and self respect, and finally a sphere of political power. He justifies these categories by arguing that the design of modern society and the standing institutions strongly indicate that we as a society share a deeply embedded understanding of these partitions between spheres. For example, as a society, schools are not politicized, divine grace cannot be bargained for, there ought to be a separation between church and state, and hypothetically speaking, power cannot be bought. Obviously modern society has strayed from some of these ideals; issues such as abortion and embryonic stem cell research show that the lines between church and state are blurred, and those who run the nation typically do so because they had the wealth to finance their election to a particular position of power.

This unfortunate overlapping of spheres is one of the primary reasons that injustice is rampant, Walzer says, and to correct this, society must return to the recognition that different social goods (including religion and power, to reference the previous examples) carry unequal value, and as such must be distributed according to what the goods logistically mean, and how they are individually valued.

According to Walzer, each sphere has its own requirements in terms of distributive justice, and as such, social goods ought to be distributed according to a certain ideology. Rather than rely on a single distributive principle as Rawls does, Walzer employs three different principles (free exchange, desert, and need) to regulate the distribution of social goods. Each of Walzer's principles applies to different goods in different spheres, and to determine which principle dictates which social good, Walzer uses two distinct criteria. In terms of social good distribution, Walzer relies on logic for the more obvious cases (for example, that good grades should be distributed according to desert), and on long-standing tradition for the more difficult cases. By carefully surveying different historical events and traditions, Walzer is able to illustrate the plurality of methods by which social goods have been distributed, and he is further able to critique which methods have historically worked best and for what reasons. Through this method, Walzer comes to classify goods such as health and welfare as need based, punishment, power, and academic achievement as desert based, and economic and financial goods as free exchange based.

Walzer uses his first principle, the principle of free exchange, to ensure that no monopolies are formed on particular goods. Ideally, the principle of free exchange would

ensure the formation of a marketplace in which goods were exchangeable through the medium of money. Such a system, Walzer says, would ensure that “every exchange is a revelation of social meaning. By definition, then, no x will ever fall into the hands of someone who possesses y , merely because he possesses y and without regard to what x actually means” (21). In other words, just because someone possesses a great deal of money, for example, does not mean that person is automatically entitled to power. This system of exchange should hypothetically ensure that commodities and goods are fairly distributed among citizens, but in reality, money itself is unfairly and unequally distributed, and therefore the distribution of goods is inexorably unfair as well. Luckily, Walzer recognizes this and safeguards his argument by stating that indeed, limits must be set “on what can be exchanged for what” (22).

The second principle of social good distribution is that of desert, and Walzer openly admits that while this is a simple concept in theory, it is much more difficult to describe in terms of reality (23 – 24). The concept of desert, or of rewarding a person based on what he or she deserves, is an entirely subjective one, and as such the distribution of goods based on desert alone must be conducted carefully and on an exceptionally broad scale. Thus, if it is deemed that the accomplishment of a certain task warrants desert of a particular reward, then that reward must be equally offered to everyone who completes the task. For example, consider the “reward” of overtime pay. Traditionally, those who work more than 40 hours per week earn 1.5 times their normal wages for additional hours because society has deemed they deserve more pay for more work. However, this particular reward is not offered to workers on a case by case basis;

rather, it is offered to workers on a broad scale, thereby demonstrating that distributive justice can be preserved even when a subjective principle of distribution is used.

Walzer's third and final principle of distributive justice is that of need, the creation of which was largely inspired by Marxian principles (Walzer 25). In The Communist Manifesto, Marx claims that social goods ought to be distributed in a community based on the needs of its citizens, and though it is admittedly an abstract theory, it is one that Walzer embraces as necessary for the establishment of justice. To put this particular criterion into perspective, Walzer says "it's not having y , but only lacking x that is relevant" (26). To use a very simple example, it is unequivocally known that food falls under the category of need. Though there is no realistic way to quantify such a classification, the fact that human beings suffer negative effects in the absence of food is enough to prove that it is a needed commodity, especially in a just society.

Though Walzer's distributive principles are certainly workable in theory, their application to actual social goods presents a challenge that raises several interesting questions. Take the principle of desert, for example. Social good distribution based on this principle can only be subjectively assigned, and Walzer says that "it calls for difficult judgments, and only under very special conditions does it yield specific distributions" (25). Thus, while it is feasible to award, say, a science fair ribbon based on the most interesting project, one must keep in mind that what constitutes an interesting project is completely arbitrary and subject to the judges of the competition. Such discrepancies can typically be overcome and accepted as a just use of desert, but we must be careful, Walzer warns, not to let the "distributive mechanism" get out of hand. If it did, a select

and elite few could seize control of the distribution of social goods, and thus prevent the establishment of justice within that society.

Like desert, the distributive principle of need raises similar concerns as it too is a subjective principle that is easier to define in theory than in practice. One of the most obvious questions that this principle raises is that of what precisely defines a need. Clearly basic commodities such as food, shelter, and water would be accounted for, but what of everything else? Should need be equated with a strong sense of want (Walzer 25), or should it mean something more? Even if a concise definition could be given to need, it would still be problematic in the case of limited resources. It is inevitable that people will “need” more than is available of a particular good, and to fairly distribute the commodities in such a scenario would require a completely different set of distributive criteria. In terms of our existing society then, Walzer again claims that this concept can be applied on a broad scale, and emphasizes the idea that “needed goods distributed to needy people in proportion to their neediness are obviously not dominated by any other goods. It’s not having y , but only lacking x that is relevant” (26).

Once Walzer justifies his different principles of distribution for prominent social goods, he moves on to the question of how social goods are to be circulated within a sphere based on the particular classification of just distribution. Ideally, Walzer’s three principles of distribution are mutually exclusive and thus should not affect one another in terms of how the goods are distributed. For example, academic grades would logically fall under the realm of desert, and in a just society, tools of free exchange should not be used to buy grades (Trappenburg 424). Walzer uses the labor market as another example,

saying that need does not factor into it. Thus, an applicant's economic status does not render the employer responsible to hire him or her, even if that applicant is impoverished and financially in greater need of the job than are other applicants (Walzer 74-75).

Based on both history and standing social institutions, Walzer finds that two different methods have been promoted as being useful in judging the distribution of social goods, and he calls these methods simple equality and complex equality. Simple equality is a sort of egalitarianism in which every person in a particular sphere is awarded the same amount of a particular social good. History, however, has proven that while simple equality may sound attractive in theory, it does not tend to work out well in reality. In order to achieve simple equality in modern society, it would require a massive and continuous redistribution of wealth, and the oppression that would be necessary to achieve and maintain this would render a intolerable society (Walzer 15 – 17). Indeed, it seems that the most obvious example of the failings of simple equality can be seen through the practical flaws of communism, and thus Walzer suggests that the method of complex equality be used exclusively when it comes to judging the just distribution of social goods.

The theory of complex equality is defined as a method of redistribution of social goods in which citizens are unequal within a particular sphere, but only in terms of the sphere's respective distributive laws (Walzer 19). Walzer argues that this approach to distribution of goods is not only more realistic, but that it is entirely just as long as the unequal distribution in one sphere does not lead to automatic achievement in another sphere. For example, the unequal distribution of money is considered to be just as long

as the money only retains value within its sphere and does not, for example, enable a rich citizen to buy his or her way to political power (Trappenburg). Walzer argues that by allowing such inherent social complexities as the unequal distribution of basic goods to flourish in this particular manner, a realistic sense of justice is attained. Further, by preventing the transfer of success between different spheres, Walzer argues that unfair domination of advantaged individuals is circumvented (88 – 90). For example, under complex equality a financially secure student would not be allowed to purchase his or her grades, and thus the inequalities in one sphere (the financial one in this case) would not allow for unjust inequalities to arise in another sphere (the academic).

Walzer's continues his argument for how to create a just society through the fair distribution of goods continues with several other interesting points, but the rest of his ideas are outside of the scope of this paper. Indeed, Trappenburg primarily uses the above points to blend Walzer's communitarian philosophy with Rawls' universalist philosophy, and thereby create her own sphere of justice, the medical sphere. First, however, it will important to acknowledge the pitfalls Walzer's argument as defined by his critics, not only to assess the legitimacy of their claims, but to assess the strength of Walzer's assertions as well.

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Like every other prominent philosopher, Walzer and his theories have drawn scathing criticisms, and in this case, Walzer's greatest critics is Ronald Dworkin, a prominent American legal philosopher (Dworkin, NY Review Interview). In an interview with the New York Review of Books, Dworkin begins by criticizing the idea of

spheres of justice as a whole, and he asks how Walzer could have justly established these definite realms. Are these spheres preordained by ancient traditions, Dworkin asks, or were they established as part of a divine plan? Because short of these two avenues of invention, Dworkin does not see how the boundaries of the spheres can reflect a universal understanding of social justice. Walzer responds to this criticism by answering that his spheres are completely “manmade, culture-bound, and changing” (Trappenburg 425). “Our shared understandings are presumed to have been reflected in the way we have built our institutions,” Walzer says, and thus the empirical investigation of existing social structures can indeed reveal where the traditionally appropriate social boundaries lie (Trappenburg 425). The emphasis that Walzer places on tradition is appropriate, one might claim, because one can assume that long-standing social practices endured based on their validity and effectiveness over time. Though Walzer’s argument is certainly subject to interpretation, it is hard to deny that an empirical review of the past can illuminate certain social boundaries that have worked time and time again, and might indeed still be found in modern society.

Dworkin also strongly objects to Walzer’s claim that “distributions flow out of and are relative to social meanings” (Walzer, NY Review Interview). Dworkin argues that social meanings are certainly not shared, and this is evidenced by the fact that questions of just distribution continually elicit arguments, both philosophically and practically. The fact that it is so easy to find the grounds to argue about what constitutes fair distribution of social goods indicates that there is not an underlying, shared consensus about justice, and therefore the bulk of Walzer’s argument is nullified. Walzer responds

to this caustic critique by arguing that Dworkin's criticisms are fundamentally flawed, and that disagreement about a subject does not rule out the possibility of a finding shared understanding of its meaning. Walzer goes so far as to say that "disagreement displays rather than denies the existence of shared meanings" (NY Review Interview), but he never substantiates this argument, and the only defense he offers to this criticism is faulty at best.

When it comes to proving that the shared understandings within a community can not only be defined, but can be enough to establish justice within a society, Walzer's argument falls short. Despite his quasi-communitarian approach to justice, Walzer runs into the problem of universalist philosophers in that proving the existence of a universally accepted moral logic is unfeasible. However, in order for society to function at all, certain standards must be established. What's more, in order for a just society to be established, a compromise must be drawn between the conflicting viewpoints that inevitably exist. Despite the best efforts of politicians and philosophers alike, solutions to the problems in our modern society cannot appease every person, and this is why it is so difficult to not only define, but to implement principles such as justice.

Though Walzer's approach to justice faces important challenges that cannot be dismissed, Trappenburg contends that there are ways to both salvage and build upon his Walzer's central ideas. Trappenburg adopts Walzer's idea of the sphere, and she uses it to create her own application and interpretation of justice in the form of a medical sphere. Intent on finding a realistic way to both define and implement justice in the health care

system, Trappenburg also adopts Walzer's non-universalist approach, and in so doing, she presents a solution to the health care problem that just might work.

Chapter 4:
The Medical Sphere of Justice

In her article “Defining the Medical Sphere,” Margo Trappenburg makes it clear that her primary goal is to determine a fair system of health care provision. This is obviously a daunting task to undertake; though the list of problems that are imbued in our current health care system seem endless, society has reached the point that the question is no longer if fair health care distribution is needed, but how it can be achieved.

Trappenburg argues that despite all of the different facets contributing to the United States’ current health care crisis, the solution to the problem can be simplified to a single bottom line. “Health care,” she says, “ought to be distributed according to medical need” (428), and therefore this should be the aim of any and all proposed solutions to the health care dilemma. Walzer echoes this sentiment, stating that there is overwhelming evidence derived from normative traditions that prove health care should be proportionate to the patient’s illness, not the patient’s wealth (Walzer 86 – 88). Rather than maintain a strictly Walzerian line of thought, however, Trappenburg chooses to modify his theory based on the challenges that it faces (challenges which, of course, were outlined in the previous chapter). She begins her revision of what she calls the “Walzerian standpoint” by considering the rescue principle, an alternative that was once offered by one of Walzer’s greatest critics, Ronald Dworkin.

In an article entitled “Will Clinton’s Plan Be Fair,” Dworkin responds to the question of whether former President Clinton’s Health Security Act is a just method of

social reform. In the article, Dworkin introduces what he calls the rescue principle, which in effect represents the idyllic application of justice within the medical field. The rescue principle, Dworkin says,

has two connected parts. The first holds that life and health are chief among all goods: everything else is of lesser importance and must be sacrificed to them. The second insists that health care must be distributed on grounds of equality: that even in a society in which wealth is very unequal and equality is otherwise scorned, no one must be denied the medical care that he needs just because he is too poor to afford it. The rescue principle is so ancient, so intuitively attractive, and so widely supported in political rhetoric that it might easily be thought to supply the right standard for answering questions about health care rationing (23).

Interestingly enough, Dworkin goes on to quash the applicable potential of these principles, claiming that the constructs of modern society have rendered the rescue principle useless. In today's capitalistic society, if the rescue principle were to be followed, there would be no cost containment and all funding in the United States would be disproportionately funneled into the health care system (Dworkin 23 – 25). Dworkin's solution is to abandon the rescue principle, which leans toward the communitarian line of thought, in favor of a more Rawlsian approach to health care justice, and he suggests this particular approach for several reasons.

First, Dworkin says that realistically, life and health cannot be considered chief among goods in all scenarios. For example, from an economic perspective, medical procedures that are costly and offer a disproportionately low chance of survival should not be publicly funded (Dworkin 24; Trappenburg 431). If all procedures were to automatically qualify for public funding, the health care system would become a bottomless financial pit that could not be sustained. But from an ethical perspective, assuming of course that Trappenburg's bottom line is just, then health care should be

proportionate to the patient's illness, not to the thickness of his or her wallet. If insurance coverage for certain life-saving procedures was to be eliminated simply because a group of disconnected and unaffected corporate executives decided that the risk of complications did not justify the costs of the procedure, this would obviously not represent a just health care system. Nonetheless, Dworkin is correct in that financial matters must be taken into account, especially in the United States' capitalistic society, and thus the problem of how to reconcile a just health care system with a feasible one remains.

Dworkin's second argument against the rescue principle is similar to the first, and he claims that the desire for a system in which health care is equally distributed must be abandoned because finite economic resources dictate that the full scope of medical treatments cannot be made available to all citizens. Even if the most basic medical procedures were to be offered on a nondiscriminatory scale, however, the nation's limited finances cannot prevent wealthy citizens from purchasing the more extravagant medical treatments, and therefore the distribution of health care can never be equal.

In terms of Walzer's communitarian argument for health care, Dworkin's above argument is devastating for the rescue principle is, by and large, what Walzer is promoting. According to author Brian Orend, Walzer believes that America's normative traditions point to a shared understanding of health care that says medical treatment should be distributed by the public sector according to the degree of medical need. This fulfills both pieces of the rescue principle, the first because of the high regard in which Walzer holds health care, and the second because if treatment is distributed solely

according to medical need, then it follows that health care will be distributed on the grounds of equality. However, in part by rejecting the validity of the rescue principle, Dworkin effectively makes his argument that Walzer has misinterpreted the shared understandings of the nation (Orend 42 – 43). According to Dworkin's own analysis, he finds that

America is committed to universal access only with regard to a very basic minimum of health care for all who medically need it (basic preventative care for children, emergency care for adults) and, beyond that very thin threshold, to medical distribution based on the ability to pay, whether out of pocket or through private insurance coverage (43).

The drastic differences in these interpretations of America's underlying understanding of health care means, for one, that Walzer cannot legitimately suggest a social policy reform simply because the accuracy of his interpretation of the nation's needs cannot be unanimously agreed upon. As Dworkin argues, "if you are to hold people up to the standards of their own shared principles, you'd better get it right with regard to what exactly those principles are," and in his mind, Walzer simply fails to meet these criteria (43).

Though Dworkin's argument once again demonstrates a degree of logic, especially when pitted against that of Walzer, Dworkin is suggesting that the health care system must remain a free market one, albeit a controlled free market one. However, such a system would treat health care as an optional good or service rather than a necessity, and therefore it cannot be considered just. Health care is not a commodity, it is a basic right. Much like human beings require food and water to function, good health is just as necessary if a person is to live a fulfilling life. This, then, describes

Trappenburg's dilemma: she must describe a new medical sphere of justice, one that encompasses a health care system that is not only practical, but that preserves the integrity of justice. In order to find a viable solution to the problem of health care distribution, Trappenburg argues that she must extend the argument that Walzer himself made by rescuing the rescue principle, and indeed she does just that.

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To salvage the rescue principle and apply it to modern society, Trappenburg employs a three-step approach. The first step is to reconsider Walzer's criterion of need, and to reframe it in terms of modern society. To modernize the need criterion, it is important to recognize that in a capitalistic society such as this, finances are obviously unequally distributed among citizens. While economic inequalities are not morally objectionable in and of themselves, Trappenburg adopts a Walzerian attitude and deems economic inequalities unjust when they affect the allocation of social goods outside of the economic sphere (Trappenburg 429). Thus, it is absolutely essential to adhere to the second part of the rescue principle, which says health care must be distributed on the grounds of equality (430). Indeed, if Trappenburg's idea of justice in the medical sphere can come to fruition, health care must be distributed on the grounds of equality no matter a person's financial wealth.

In terms of reevaluating the need criterion, Trappenburg suggests that medical need must ultimately be determined by the patient, and that need in this sphere should not be affected by issues that are outside of it. To demonstrate her point, Trappenburg uses the example of a terminal cancer patient. To survive, a doctor will determine that the

patient “needs” several rounds of intensive chemotherapy. However, this definition of need is but an external opinion, and indeed the patient may decide that he or she needs no such thing, and may choose to spend his or her remaining life at home surrounded by loved ones (430). Of course in such situations, the guidance of a medical professional is required as without that professional the patient could not reasonably assess his or her options. But ultimately, that which constitutes need must be decided by the individual, and this responsibility cannot be overtaken by another person. However, this raises the question of what defines need. In Spheres of Justice, Walzer says that the term need can adopt a child-like definition, and be described as “the strongest form of the verb *to want*” (25), but Trappenburg implies that this definition is insufficient and must be expanded as follows.

Beyond the basic biological requirements of food, water, and shelter, that which constitutes need is subjective and very difficult to establish. Boundaries must be assigned to its definition, however, for otherwise needs can become interchangeable with wants, which would render Walzer’s need criterion insignificant. In determining the boundary between a need and a want, Trappenburg says that such decisions cannot be made based on matters that lie external to the issue in question. To return to the example of the terminal cancer patient, if an economic perspective were to be included in the medical needs of the cancer patient, then obviously one could argue that the patient needs no treatment whatsoever. After all, what would be the point in wasting taxpayer money on futile treatments (Trappenburg 431)? But if health care is a right and not a commodity, then external factors, even financial ones, should not hold any relevance. Going back to

Walzer's principles, when peripheral factors transcend the defined spheres, justice is lost, and in this particular example, the inherent dignity of the patient is lost as well. Thus, to uphold justice, the concept of medical need must be defined by the subjective desires of the individual as long as his or her decision is not be affected by issues that lie outside the realm of the medical sphere.

The second step that Trappenburg says must be taken in order to find a viable solution to the problem of health care is to establish the borders of the medical sphere of justice. The medical sphere is a creation of Trappenburg herself, one that Walzer overlooked, but one that is necessary all the same. The boundaries of this sphere will be determined through the definitions of both medical need and medical treatments, Trappenburg argues, both of which can be difficult to define due to their subjective nature. Logically, it seems that a condition constitutes a medical need when either a physical or mental condition harms or poses a threat to the well-being of an individual. Trappenburg never gives an exact definition of medical need, but she does clarify that no matter the definition, it needs to be a relatively narrow one for otherwise it "might lead to rising medical costs but also because [it] would give doctors too much power over everyday life" (431). In other words, if the definition of medical need were too broad, then realistically speaking, the system would be financially unsustainable because there would be little to no limit on what procedures, no matter how costly, actually constituted medical need. A broad definition of medical need would also be detrimental to the establishment of justice because it would grant doctors too much power. Under these circumstances, every malady no matter how trivial could be used by doctors as a

mechanism to generate capital. If a medical need encompassed the treatment of every unusual symptom, for example, benign moles could be removed in a costly procedure based on medical necessity. Not only would this undermine the justice of medical distribution, but it would pervert the distribution of power within our society as well.

Like the definition of medical need, the definition of medical treatment too must be specific to ensure just distribution within the health care system as well as to maintain a practical degree of cost containment. Trappenburg defines a medical treatment as “any kind of treatment that has been scientifically tested and that has been proven to work better than placebos” (431). The distinction between scientific and nonscientific treatments is crucial because otherwise, treatments such as faith healing or magnetism would be considered medical practices, and therefore their distribution would have to be accounted for (Trappenburg 431 – 432). This would ultimately lead to uncontrollable “medical” costs, and the health care system would collapse under the financial burden of distributing such treatments to the general public.

Finally, the third step that Trappenburg argues must be taken to establish a just health care system is to recognize the overlap that inevitably occurs between her medical sphere and Walzer’s sphere of office, and economize the medical sphere accordingly. Trappenburg argues that physicians belong in the sphere of office as well as in the medical sphere because they are professionals. Walzer’s definition of the sphere of office explains that in exchange for their specialized services, professionals are willingly rewarded for their work with both money and status (155 – 158), and doctors are no exception. However, as part of the medical sphere, doctors must be accountable to the

public in return for the rewards for their services. As professional members of the sphere of office, doctors are trusted not to abuse their privileges, and Trappenburg claims that this will prevent injustice from entering the health care system (431). Though abuses of power can run the gamut in terms of examples, Trappenburg uses the story of the doctor who prescribes unnecessary medication or procedures in order to ensure funding from drug companies as an effective way to substantiate her claim.

Though Trappenburg's three steps to a just health care system are certainly difficult, they are undeniably both logical and realistically attainable in many ways. What is more, however, is that Trappenburg's solution for the health care dilemma seems timeless; her three steps – revising the need criterion in terms of modern society, establishing the boundaries of the medical sphere, and economization the medical and office spheres – are not fixed, and all can be adjusted to reflect the changing thoughts and opinions of the time. Because of the flexibility, Trappenburg's logic regarding the reformation of the health care system will certainly hold value as long as the general consensus is that medical care should be provided in proportion to the sickness, not the financial situation of an individual.

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Though Trappenburg's argument is sound and certainly seems like a feasible fix, like all philosophical solutions to realistic problems, Trappenburg's answers are surely not without fault. There are indeed some fuzzy areas within the constructs of her argument in which further explanation might be desired. The first such area concerns Trappenburg's discussion of the boundaries of her medical sphere. She defines the

medical sphere based on the respective definitions of medical need and medical treatment, both of which are subjective by nature. Recognizing this, Trappenburg warns that the official definitions of each term must be narrow for cost containment purposes, but it seems unreasonable to think that a single, narrow definition can support the needs of such a large, diverse population as the one that resides in the United States.

Trappenburg's promotion of what constitutes a medical need is especially difficult to accept considering she never provides the reader with a concrete definition of the term. As previously mentioned, Trappenburg suggests that this definition must be narrow enough to prevent rising medical costs and to prevent doctors from having too much power over daily life, but this is the extent of her assessment. In realistic terms, then, how can we possibly determine what constitutes a medical need? The first question, I imagine, would be whether to consider mental health as well as physical health. Most would argue that mental incapacitations are just as deserving of medical treatment as are physical injuries, but this raises the more difficult question of where the line should be drawn. For example, should only the drastic cases such as the schizophrenics be treated as a medical need? Or should every mild case of depression be considered just as urgent? The question of what constitutes a physical malady also proves to be a realistically difficult question in its own right. To bring up a controversial side to this particular question, for example, it is exceptionally important to address the question of whether preventative medical treatment constitutes a medical need. Would the constructs of Trappenburg's sphere allow for procedures specifically geared toward health

maintenance, or would the disease have to manifest itself to be considered a medical need?

These questions are undeniably difficult ones to answer, and realistically speaking, the answers would be even more difficult to enforce. To answer the mental versus physical health question, for example, it makes some sort of sense to accept moderate to severe mental conditions as medical needs. The moderate to severe qualification was made simply because according to nurse practitioner Karen Fontaine, each and every person experiences bouts of anxiety and depression in their lives, and as these temporary grievances do not require treatment, they should not be considered a medical need. But regarding the more permanent or more critical mental conditions for which treatment is required, how would the state pay for it? The treatments would very likely consist of long-term actions, whether in the form of a pill or in the form of counseling, and because such costs would add up very quickly, it is hard to realistically expect such government expenditures. To answer the question concerning whether preventative health measure should be classified as medical need, it rationally makes sense to say yes. According to the 2005 United Nations Development Report, the United States spends more on health care than does any other industrialized country, and author Jonathan Cohn attributes this to the fact that “it costs more to treat a disease than it does to prevent it” (35). However, how would limits be placed on this? Determining what preventative treatment is becomes an entirely subjective issue and could include anything from expecting vitamin provisions to weekly check-ups. Placing boundaries on such an

issue would be exceedingly difficult, but without these boundaries, the health care system would quickly become a fiscal black hole, and would no longer be sustainable.

In addition to the definition of “medical need,” Trappenburg also places an emphasis on the definition of medical treatment as being important to defining the boundaries of the medical sphere. Trappenburg actually provides a definition for this term, saying that a medical treatment is “any kind of treatment that has been scientifically tested and that has been proven to work better than placebos” (431). In theory, this definition seems flawless; it is narrow enough to exclude any ritualistic treatments, but it is broad enough to cover the necessary treatments for any disease. However, if this definition were to be not only applied but adhered to in reality, society would quickly return to the current problem being experienced with insurance companies. Under the constructs of the current health care system, physicians are typically required to prescribe only treatments that have been pre-approved by the insurance company as cost effective. Many medical tests that would be helpful in certain situations are denied simply because they cost too much to perform. Though Trappenburg disqualifies non-scientifically tested procedures as a measure of cost containment, it seems that if her definition of medical treatment were to be adhered to, costs would rise exponentially and once again render the health care system unsustainable.

A second major flaw in Trappenburg’s argument is found in her first step for health care reform, which states that Walzer’s criterion of need ought to be reconsidered and reframed in terms of modern society. Trappenburg argues that medical care must be administered on the grounds of equality, and its distribution should be determined by

need alone. This is logically sound in and of itself, but Trappenburg's argument loses its realistic validity when she goes on to describe how need in the medical sphere cannot be affected by issues that are external to it. Theoretically, this argument is flawless; it would be lovely if the medical needs of a patient could be ascertained based on his or her medical condition alone, but it can never work this way in the real world. The capitalistic structure of our society and of our hospitals dictates that certain issues, especially economic ones, will always influence decisions regarding health care, even though these issues lie external to the medical sphere.

Based on Walzer's definition of the different distributive principles of justice, the three principles (need, desert, and free exchange) seem too closely intertwined to simply separate out the need criterion as Trappenburg does. The consideration of need when distributing medical care is certainly necessary, and indeed the need criterion might be the most important of the three. However, it cannot realistically stand alone, and in certain cases, the criteria of both desert and free exchange will come into play. As far as the principle of desert is concerned, imagine, for example, that a recently deceased patient has donated his or her organs, and a heart is available for transplant. The question of who the heart should be given to is obviously a pressing one, but it is not one that can be resolved using the principle of need alone. Thousands of people suffer from cardiac diseases that require transplantation, and even if the need criterion was used so far as eliminate the less urgent cases, chances are there would be several patients who have equal need for the heart. In this particular scenario, then, distributive justice could only be determined using the principle of desert. Perhaps one transplant candidate smokes, for

example, or perhaps a certain candidate is much older than the rest. Determining desert in such a scenario is a moral question in and of itself, but it proves that when it comes to justly distributing medical resources, the criterion of desert cannot be eliminated.

Much like need and desert, using the principle of free exchange in determining matters of health care distribution is also unavoidable. Though Trappenburg disregards this principle in her exposition on health care reform, it cannot be ignored on the grounds that America is a capitalistic nation, and though it may be unfortunate, the current health care system is very much a free market one. This is not to say, of course, that the foundations of a free market health care system are even ethical, but in order to bring about health care reform, the solution must fit realistically within the existing system. Thus, though the principle of free exchange generally only affects the health care system when it comes to economic issues and insurance companies, it still plays an important role in determining the course of action in different ethical issues.

Carl Middleton, who is the vice president of Ethics and Theology at Denver's Catholic Health Care Initiatives, gave an excellent example of an ethical scenario in which the principle of free exchange came into play. Middleton explained that local Catholic hospitals reserve a certain budget each year for treating uninsured patients, and that once, the treatment required for a single uninsured patient cost the hospital more than 35% of their annual budget. The ethical issue, Middleton said, was whether to continue the costly treatments at the expense of other uninsured patients, many of whom would lose their access to treatment once the budget ran out, or to begin charging the man for his treatment. By Walzer's standards of distributive justice, this is an especially difficult

case for in it, Walzer's principles contradict one another. The principle of need might lead to the conclusion that treatment should be continued since the man was sick, but the principle of desert led to the conclusion that one patient did not deserve all of the hospital's budget for care of the uninsured. The tie breaker in this case was indeed the principle of free exchange, and Middleton said the man was ultimately asked to pay for some of his medical expenses. Thus, as this situation shows, all three of Walzer's principles of distributive justice are important in determining how to fairly dole out medical care, and the fact that Trappenburg singles out the need criterion weakens her argument immensely.

In the final chapter of the thesis, I intend to explore the ways in which Trappenburg's approach to health can be modified in order to meet the objections that I've raised above. I hope that this solution will be a realistic one, but that it will retain the idealism presented by Rawls, Walzer, and Trappenburg. The lesson to take from these philosophical solutions to the health care crisis is that realistically, the health care system will never be perfect. But in the end, taking even a small step toward a more just health care system is better than taking no action at all, and it is with this mindset that we will set forth to find a solution for this broken system.

*Conclusion:
The Answer to the Health Care Problem*

In the United States today there exists an ever-widening chasm between the health care system described by ideal theories of justice and the system's actual reality. As it currently stands, our health care system is not just by Rawlsian standards, by Walzerian standards, or even by world standards, as evidenced by the explicit provision of health care in the U.N. Declaration of Human Rights. Several solutions have been offered as attempts to close the gap between the ideal and the real, and thus far we have explored a Rawlsian framework, a Walzerian framework, and the development of Walzer's ideas as presented by Trappenburg. However, as we have discovered, none of these theories as currently developed has been able to offer a workable solution to the health care problem. Thus, what I intend to do now is to take Trappenburg's revision of Walzerian justice and offer my own suggestions as to how it might be modified by bringing in minimalist and observational components to reply to its critics.

Of all the solutions to the health care crisis that have been surveyed, Margo Trappenburg's approach to health care reform arguably holds the most potential for the very reason that she pays strict attention to both the idealism that describes why reform is necessary and to the reality of how such reform can be attained. This is not to say, however, that Trappenburg's argument for health care reform was flawless. Indeed, as was explored in the previous chapter, several imperfections could be found within Trappenburg's argument: she used narrow definitions of "medical need" and "medical

treatment” to apply to the diversity of an entire nation, she never actually defined a medical need, her system was left open to potential financial ruin due to a lack of cost containment strategies, and she isolated Walzer’s distributive principle of need as the only one that holds importance in the medical sphere. Despite these flaws, however, it is important to remember that her suggested solutions to the health care crisis should by no means be dismissed. Rather, I would argue that by reforming her argument once more by applying both minimalist and observational components, a truly viable solution to the health care dilemma will be found.

When I say that a minimalist component should be added to Trappenburg’s argument, I mean that the previously discussed holes or imperfections in her theory could be negated if due attention is given to the big picture rather than the details. One of the biggest problems with Trappenburg’s argument lay in her conviction that the medical sphere could be defined by a universal definition for both “medical need” and “medical treatment.” It seems unreasonable to think that a single, narrow definition could support just distribution within the health care system for such a large, diverse population as that which resides in the United States. However, if the terms “medical need” and “medical treatment” are assigned the most minimal and un-detailed definitions possible, then their application to the medical sphere might work just as Trappenburg hoped it would. Thus, for example, instead of trying to specify all of the conditions that constitute a medical need, why can’t we start out with a broad definition that says a medical need arises when a life threatening condition is present? Thanks to philosophical notions of justice, such as those put forth by Rawls, most of us can agree that every human being should have the

right to accessible and affordable health care, and thus the real conflict lies not within the concept itself, but within the details. Indeed, while the just distribution of something minor such as allergy assistance, say, can be debated indefinitely, it would be difficult to argue that a gunshot victim should be denied medical care. Therefore, by adhering to a minimal and broad definition of “medical need,” the arguable points regarding the details are circumvented, and though it is not perfect, this clearer vision of Trappenburg’s medical sphere will provide one small step that we can take towards creating a better health care system.

Similarly, a minimalistic approach to the definition of “medical treatment” would work as well. A medical treatment, according to Trappenburg, is anything that has been scientifically proven to work better than a placebo, but once again, the precise details of treatment distribution become exceedingly problematic. Should medicine be prescribed and/or provided for every ache and pain? This point is obviously contestable, and those against health care reform will argue that no, medicine should not be provided unless the patient can pay for it lest the health care system become a bottomless financial pit due to the exploitation and overuse of prescription drugs. But once again, though one can argue about the just distribution of cholesterol medication, it would be difficult to argue that a transplant patient should not be provided with anti-rejection drugs. For whether that patient can pay for the pills or not, refusing him or her the drugs would be paramount to a death sentence, which is inarguably unjust. Thus, by starting with the most basic definition of “medical treatment” and ignoring the semantics for the time being, viable

boundaries for Trappenburg's medical sphere can be established and provide a method of working toward a more just health care system.

Finally, I believe that in addition to this minimalist approach, adding an observational component to Trappenburg's approach is necessary and to augment the validity of her arguments. Trappenburg makes it clear that she is not only interested in the theories of justice that are presented by Rawls and Walzer, but she is also interested in their real world application. However, in order to narrow the gap between theory and practice, she must find a way to persuade real people to make real changes in the health care system. As Trappenburg herself says, a theory is only convincing if it is "useful in suggesting solutions to concrete problems of social justice" and though her theories are convincing by these standards, it is hard to convince the masses that a philosophical thought experiment alone can provide the fix for a major social crisis (419). To convince the public of a way to overhaul the health care system, empirical evidence that a certain ideology can work is needed, and this is what I mean by adding an observational component to Trappenburg's work. By observing real-life health care systems around the world, I believe that the empirical evidence needed to support Trappenburg's philosophical theories can be found, thereby providing an invaluable addition to her already superior ideas.

As alluded to above, I suggest that in terms of adding an observational component to Trappenburg's theories, the most efficient and realistic method of reforming the health care system will be found not by looking solely to philosophical ideals, but also by looking to the examples of other health care systems around the world. With an

understanding of the philosophically derived ethical principles surrounding justice and fairness acting as a necessary guide in gauging the morality of our actions, the examination of existing solutions will allow for the discovery of new and untapped possibilities.

An additional benefit to observing other health care systems as a method of reforming our own is that the evidence for both the benefits and the pitfalls of a particular scenario is already in place. Such evidence will not only make the idea of health care reform more appealing to the general public, but if the outcome of a solution is already known, the risk of further damaging the current health care system is all but eliminated. As such, the pros and cons of the different health care systems should be rationally assessed, and there is no better place to start than with the exploration of nations with universal, or socialized, health care systems. Medical practices under universal health care systems are essentially polar opposites of medical practices under the United States' privatized medical system. Rather than take a free market approach to health care, universal systems provide medical coverage to all citizens regardless of their income, socioeconomic status, employment, or race (Dutton 9).

Several industrialized nations including Germany, France, and indeed most of Europe, have adopted universal health care systems, and thus the observation of these nations can provide good modules for determining what works, what doesn't, and what can potentially be adopted and used in the renovation of the United States' health care system. According to author Laurence Kotlikoff, universal health care has proven to be a beneficial system for many reasons. First and perhaps most obviously, Kotlikoff argues

that universal health care systems are good because they ensure that all citizens have access to free medical care. This is not only better than the U.S.'s standing health care system from a justice standpoint, but numerous studies conducted by the Journal of the American Medical Association have shown that nations with universal health coverage have citizens that are healthier and that live longer than their American counterparts. Proponents of universal health care have also argued that it is an effective way of cutting administrative costs across the board. If, for example, citizens have access to preventative medicine, then more severe and more costly medical situations can be avoided (Relman 41 – 44). Finally, proponents of universal health care claim that doctors working under such systems provide better patient care because rather than focusing on the business and political issues that come with insurance companies, the doctors are free to focus on the care of their patients and nothing more (Relman).

Of course, it is important to realize that for every benefit that universal health care offers there are just as many downfalls. Universal health care has not been implemented in many nations, including the United States, because of the valid criticisms raised by its opponents. According to Dutton, one such criticism is that universal health care systems are inefficient for several reasons. First, many people believe that the government is neither organized nor capable enough to take on another massive social project, and that if the health care system is relinquished into government hands, the system will inevitably collapse from neglect. Others argue that universal health care systems are inefficient because if health care is “free,” then patients will take advantage of the system which will raise overall costs. Those who are against universal health care also claim that

it is misleading to promote the system as providing free health care because such systems are sustained by increased taxation.

From this brief snapshot of universal health care, the reasons why such a system has not been implemented in the United States are obvious. What is less obvious, however, is why the benefits of such a system have not yet been adopted. Take, for example, a report that was recently released by the American Medical Association claiming that despite opposing opinions, preventative medicine has indeed been shown to lower health care costs overall and add efficiency to the overall health care system (Chernomas and Sepehri). If we not only know this but we can see that it has worked in other nations, why has the United States not tried implementing preventative medicine as a small step toward health care reform? Each health care system has its good aspects along with the bad, and the tendency to allow the negatives to overshadow the positives needs to stop. We need to examine the constructs of other health care systems, be they universal ones, single payer ones as are found in Canada, Denmark, Norway, and Sweden, or the national salaried health care systems such as those found in Great Britain and Spain (Jones, Goldsteen and Goldsteen; Lebow). The pros and cons to each of the aforementioned systems is another subject for another paper, but I maintain that there is something to be learned from each, and that if given the chance, these overlooked and often scorned health care systems can change our own for the better.

Of the flaws in Trappenburg's argument, I believe that adding both a minimalist and observational component to her theories is a sufficient way to correct most of the aforementioned shortcomings. First, I feel that the minimalist approach will correct for

the fact that Trappenburg applies the narrow definitions of “medical need” and “medical treatment” to the entire nation, as well as the fact that she never actually defines a “medical need.” By taking a minimalistic approach to the health care problem, the precise meanings of Trappenburg’s defining terms are rendered less important in that the focus will be shifted from semantics and details to broad approaches to health care that people can agree upon. Returning to Rawls’ work, then, this means that a solution can effectively be worked on and eventually derived from this broad point of overlapping consensus among the nation’s self-interested and rational citizens. Secondly, I believe that the addition of an observational component will correct for the fact that Trappenburg does not account for measures such as cost containment in her philosophical plan for health care reform. By observing existing health care systems in the world around us, the methods that work can be separated from and even pitted against the methods that do not; as a result, empirical evidence can be found to support the particular constructs of Trappenburg’s ideal medical sphere, thereby circumventing this particular flaw in her argument.

However, as was mentioned in the previous chapter, Trappenburg’s theory presents one final flaw that cannot be corrected by the addition of either the minimalist or the observational approaches to her argument for health care reform. This flaw is that Trappenburg separates Walzer’s distributive principle of need from the principles of desert and fair exchange, a move which, as was previously discussed, is entirely unrealistic. Thus, in a final addendum to Trappenburg’s theory, I argue that Walzer’s three distributive principles of justice cannot be separated, and that the reality of each

must be accounted for if a realistic solution to the health care crisis is to be found.

Walzer's three distributive principles are simply too closely intertwined to be considered isolated entities, and as such, to argue that the principles of desert and fair exchange will not play a role in determining the distribution of health care seems a bit naïve. By openly acknowledging the role that all three principles will play in determining the distribution of health care, I believe that a just system can realistically be created within the boundaries of Trappenburg's medical sphere.

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By modifying Trappenburg's already solid argument in these three ways (adding the minimalist component, the observational component, and the distributive principles of desert and free exchange), I believe that a workable solution to the modern health care problem has finally been found. In order to test my own theory, however, I will pit it against reality by introducing criticisms of the health care system that arise from two separate interviews which I conducted with local Colorado residents who are concerned with the current state of the nation's health care system.

The first interview that I conducted was with Carla Stefano, a registered nurse working in Denver. Carla is a member of the AFCM (Americans for Free Choice in Medicine), a national group that staunchly opposes health care reform. According to their website, the AFCM is a "national non-profit, non-partisan educational organization...that promotes the philosophy of individual rights, personal responsibility, and a full, free market health care system." Though the need for health care reform many seem obvious in theory, the idea of restructuring the health care system remains quite

controversial in practice, and indeed one of the many obstacles facing health care reform is the fact that not everyone agrees upon its necessity. Ideologically, it would be easy to dismiss such concerns by assuming the voices in opposition to health care reform come from the insured, the elite group that the current system is actually working for. But in reality these voices cannot be ignored, and once Carla's concerns are addressed, I will assess if and how her views fit into my own solution to the health care crisis.

In our interview, I asked Carla to explain why she and her fellow group members are so opposed to national health care. "What was this country built on?," she asked me at the interview's outset. "Life, liberty, and the pursuit of happiness," she replied, complacently answering her own question. She went on to explain that the members of AFCM tend to approach issues of health care from a very patriotic standpoint, and Carla says one of their overarching beliefs is that health care is a privilege, not a right. When I asked Carla to elaborate on this, she turned to the Declaration of Independence and the U.S. Constitution. Health care is unarguably absent from these influential documents, and Carla believes that it is for good reason. "America is the best nation in the world," Carla says, because it was built on ideals of protecting individual rights. "What the Constitution does is it allows me as an American citizen to have the right to action, not just the right to privilege," Carla explained. To her, this means that because of our individual rights, all Americans are equal at birth. Life is primarily shaped by how hard we work and what we establish for ourselves, and the only protected right that Americans have is the right to pursue privileges, health care included. "[We] cannot have rights that do not require action on the part of the participant," Carla says. "America was built on

hard work, not on entitlement, and...just giving people things like health care undermines the foundation of our country.”

Carla’s concern that doling out privileges such as health care will create a sense of entitlement that is counterintuitive to America’s founding notion of hard work is a valid one, and it is a concern that is echoed across several testimonials on the AFCM website. However, Carla’s concern is a purely idealistic one and is not well-grounded in reality. In theory, Carla’s concern is correct. If the government began handing out sports cars, for example, and called it a right, then yes, the American notion of hard work might be undermined by a growing sense of entitlement. Sports cars can be considered a privilege because they are not an integral part of life, and contrary to the beliefs of the average teenage boy, it is possible to live without one. Health, however, cannot be considered a privilege; it *is* an integral part of life, and indeed plays a large role in determining the duration and quality of life itself. Thus, realistically speaking, Carla’s concern is undeniably based on a flawed understanding of the differences between rights, privileges, and health care. Universal health care cannot be equated to the government doling out privileges, and it is unlikely that universal health care will foster a sense of entitlement in the general population for even with hard work, health care is often unattainable. For example, Becky Edwards (whose story was recounted in the introduction) worked several jobs after her husband died to support herself and her two children. However, with health care premiums constantly rising and the average family spending more than 12,000 dollars per year on health insurance, it simply was not a feasible expense for Becky and her family, hard work or not (Quadagno 78).

If health care is not a privilege but rather a necessity for the livelihood of all citizens, it is the duty of the government to provide health care as a public service. It is true that health care is not specifically mentioned in the Constitution or in the Declaration of Independence, but does it need to be? From these documents it is evident that our Founding Fathers meant for America to be guided by an ideal, constitutional government, one whose powers are tailored to the interests of the people and to the protection of individual liberties. The interest of most people, I imagine, would be to secure the health of both themselves and their families, and thus if our government is to uphold its constitutional ideals, shouldn't health care be provided to the public? Furthermore, by not ensuring that health care is at least a viable option for its citizens, the government is indirectly hurting individual liberties rather than helping them. Good health is an essential part of life, so much so that its absence negates all other aspects of life, including the ability to pursue one's individual rights. For what good are individual rights if one is physically unable to act upon them, or worse, if one dies from a lack of medical insurance as do 18,000 Americans yearly (Quadagno 15)? No, health care is not an explicitly stated right, but as the Preamble to the Constitution states in all its idealistic glory, the perfect Union is built by "establish[ing] justice, promot[ing] the general welfare, and secur[ing] the blessings of liberty." These ideals are worthy indeed, but in reality, health care is a necessary prerequisite to all of them for without good health, the rest of life loses meaning. Thus, the concerns of Carla and the members of AFCM seem misplaced: health care is indeed playing a role in undermining what this nation was built upon, but not because it will inhibit individual rights if made a priority of the public

sector. Rather, the privatization of health care is undermining the values of our nation by refusing to unequivocally provide universally viable health care options to the people, and the government is thereby shirking its constitutionally defined responsibility to act in the best interests of its citizens.

Unfortunately, the above argument for universal health care coverage remains unconvincing for many citizens, and this fact led me to my second interview with Jason Pirmsmetter, another Colorado citizen who is opposed to universal health care but for different reasons than Carla. Jason, who lives in Colorado Springs, recently became involved in an up-and-coming group called the Anti-Universal Coverage Club. Jason described his conflict with health care reform as follows: “Personally, I’m against it because reform has become synonymous with universal care...everyone wants universal health care. Everyone. But no one seems to consider the consequences of it! Universal health care means that Americans are either forced to buy health care, or the government is forced to provide it.” Neither of these options is viable, Jason went on to explain, because if Americans were forced to purchase health care, it would be a serious breach of freedom of choice. Not everyone wants health care, he said, so who is the government to force it upon them? Additionally, Jason opposes health care reform because he does not want to see such an enormous increase in government involvement. Expressing a viewpoint that seems to be popular among the conservative population, he told me that he fears health care will become another Social Security-esque catastrophe if the government takes on the responsibility of providing health care to each citizen. Near the end of our interview, I asked Jason if he felt there were any changes, even small ones,

that needed to be made to the standing health care system. Jason replied that the only change that needs to occur is that we need to start treating the health care system like the business that it is. “You want to lower costs so more people can afford health care?,” Jason asked. “Easy. Create some competition, among doctors, hospitals, whoever. Health care is a business, and the problems only start when people fail to recognize it as one.”

Unfortunately, the idea that the health care industry is nothing more than a business is becoming an increasingly popular one. Jason’s conflict with health care reform is primarily based on the potential repercussions of health care becoming a matter of the public sector; however, unlike Carla, his conflict is grounded in reality rather than idealism, and thus so is his solution. In practice, treating the health care system as a business entity may very well be an effective way to lower costs and make health care more affordable for the individual. In their book The United States Health Care System: Combining Business, Health, and Delivery, Anne Austin and Victoria Wetle show statistical analysis supporting the idea that business-like competition would lower costs, and help alleviate the current health care crisis. However, for justice to be attained, there must be a reconciliation between this reality and the idealism that medical practice was based upon. Medicine was never meant to be a business; the highest priority of medicine, as stated in the Hippocratic Oath upon which all doctors swear, is the good of the patient. Most businesses, on the other hand, are driven by profit rather than by customer care. Indeed in the business world, the consumer only gets what he or she pays for, nothing more and oftentimes less. Though the idealism of the Hippocratic Oath is obviously not

enough to sustain an entire health care system, it must play an important role in health care reform. For if the current health care system is turned into a business or otherwise reformed without idealism, the Hippocratic Oath will be lost and with it the practice of medicine as we know it. Medicine, like many businesses, will have the potential to turn into a corrupt entity and thus, though realistic solutions may alleviate the problems of the crumbling health care system temporarily, they will create more problems in the long run if not coupled with idealism. Without idealism, the medical establishment would no longer exist for the betterment of humanity, and thus would work against the common good rather than for it.

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From these two interviews, it became apparent just how strong the opposition to health care reform can be, and I personally found that these interviews shed light on the question of why the health care system has been allowed to deteriorate to the point it has. Though I may not personally agree with these objections, they obviously represent widespread fears regarding health care reform, and therefore they must be addressed. In terms of primary concerns, it seems that Carla fears losing individual rights in principle while Jason fears losing individual rights in reality, thereby reinforcing the notion that the just solution to health care reform will only be found when there is reconciliation between the idealistic opposition and the realistic opposition. Under my idealized system of health care reform, then, can these real-life concerns be met? I believe that the answer is yes, they can be, and for a variety of reasons.

First, it is important to remember that Carla's objection to health care reform was the fear that by treating health care as a right rather than a privilege, the ideals that this nation was founded upon would be undermined by impinging on the American right to pursue privileges rather than simply receive them. Her concern is a valid one, but I believe that by applying both a minimalist and observational lens to Trappenburg's work, Carla's concerns can be adequately addressed. First, we must recall that Trappenburg's notion of a just health care system revolves around the idea that under her modernized need criterion, health care is considered a right and as such must be distributed to the public on the grounds of equality no matter a person's financial status. This particular approach to health care immediately places Trappenburg's ideals at odds with Carla's, but this, I believe, is where the minimalistic lens can come into play.

From a minimalistic approach, I ask what defines a right versus a privilege. This question is one that can be (and indeed, has been) endlessly debated, but its true goal is not to hash out the details involved; rather, such a question is meant to establish common ground that can be arrived at via Rawls' idea of overlapping consensus. Assuming that inherent rights exist (which could arguably be a discussion in and of itself), I imagine that most individuals would agree that basic commodities such as food and water are rights rather than privileges. Privileges tend to be considered the "extras" or the "luxuries" in life, certainly goods that one can do without. But food and water obviously do not fall under this category for without them, a person would die. Thus, most would concede that a lack of monetary funds should not preclude anyone from having access to these particular goods. The question of who should provide food and water to those who

cannot provide it for themselves is another issue, but if we can agree that human beings have an inherent right to food and water, why can't we agree that human beings have a right to health care as well? Like food and water, health care cannot be considered a privilege because at some point, every person requires it; indeed, proper health care, whether in the form of a doctor's appointment, surgery, or even a prescription, often is the difference between life and death and therefore must be considered a right.

Carla's concern is that doling privileges out to the American public will undermine the work ethic and ideals that this country was founded upon. However, by applying a minimalistic lens to health care, one can conclude that basic health care is a right rather than a privilege. If overlapping consensus allows health care to be viewed this way, then Carla's concern is circumvented and her views can be reconciled with my modified version of Trappenburg's health care reform. If more convincing is needed that providing basic health care as a right rather than a privilege will not upset the ideals of our nation, one can easily use an observational lens to obtain empirical data in support. For example, though I have not done the research myself, let's say that we chose to compare the work ethic of Americans with the work ethic of the British (chosen arbitrarily on the basis that England provides its citizens with national health insurance). Though there would most certainly be differences among the two ideologies, I imagine that the differential health insurance provision would not be a contributing factor to the differences in work ethic. Thus, I believe that under the minimal and observational lenses, Carla's concerns regarding health care reform can be rationalized, and indeed her views might even be reconciled with my theoretical health care system.

Though my proposed health care system is purely an ideological one, I will now explore the question of whether Jason Pirsmitter's objections to health care reform can be rationalized within my system as an additional test of its realistic applicability. Jason's primary concern with reforming the current health care system is that there are several realistically anticipated repercussions to moving an industry from the private sector into the public one. He says that the best way to control costs within the health care industry is to treat it as a business, and his argument was that nationalizing health care would result in higher costs and eventually in another federally-funded fiasco. When facing these particular concerns, I feel that they can be easily resolved by using an observational lens.

Jason's argument that moving the health care industry from the private sector into the public one could carry serious repercussions is certainly a valid one. However, at this juncture, it is important to realize that several industrialized nations across the globe have integrated health care into the public sector, and it is even more important to realize that having such nationalized systems have significantly reduced the cost of providing health care. It is well-known that the United States spends more on health care than does any other industrialized nation, and though Jason suggests treating health care like a business commodity is the answer to cutting costs, his suggestion remains an ideological one. Indeed, as our current treatment of the health care system as a business has yet to keep costs from skyrocketing, Jason's solution remains unrealistic until otherwise proven. Thus, I propose that rather than rely on another idyllic solution to the health care problem, we ought to instead observe the systems of other nations and learn how they

keep their health care costs down. Again, though the necessary research for this is outside the scope of my thesis, I know there is an abundance data proving that nationalized health care systems can be cost effective, and thus Jason's real-life concerns about cost-containment can indeed be resolved within my theoretical health care system.

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At this juncture, I hope that I have adequately demonstrated how important it is to include both idealism and realism when tackling a problem as big as the one presented by America's current health care system. I have tried to propose a solution that meets this challenge, and I chose to approach the health care problem by combining the idealism of Rawls and Walzer as presented by Trappenburg with my own realistic revisions. However, until it is actually implemented, my solution remains with the other in the realm of theory rather than practice. Though primarily ideological solutions have been discussed in this thesis, it is important to note that there exist several important realistic solutions to the health care problem as well. In terms of solutions that have actually been implemented, however, I suggest that the most notable attempt at reconciling idealism with reality was made in 1948 when the General Assembly United Nations began the process of establishing a world wide health care policy through the Universal Declaration of Human Rights. Article 25 of this document reads:

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 the right to security in the event of unemployment, sickness, disability, widowhood, old age or lack of livelihood in circumstances beyond his control.

By decree of the United Nations, thus, all member states should strive to secure these measures as the basic standard of living for their citizens, and medical care is explicitly

included in this declaration for a reason. Though it may not be specifically mentioned in the Declaration of Independence or in the Constitution, the absence of health care from the lives of the uninsured and the underinsured inhibits one's ability to pursue his or her individual rights. After all, how completely can happiness really be pursued under the premise of a chronic illness, or in the face of thousands of dollars of debt? It cannot be, and according to Kinney et al., the realization that the maintenance of good health is an integral aspect of life is precisely why most nations have amended their respective constitutions to include health care as a human right. Thus, as a member of the United Nations and as a nation that was founded upon ideals of equality and justice, the United States is obligated to follow suit and allow for health care in the Constitution. This is not to say that the only answer to health care reform is to universalize the system; rather, it is to say that it is the moral and social responsibility of the government to ensure that access to health care is feasible for all citizens.

Franklin Delano Roosevelt once said that "the United States Constitution has proven itself the most marvelously elastic compilation of rule of government ever written," and indeed this is a fact that should be taken advantage of. Health care may not be a specified right, but both the Constitution and the constructs of our nation allow us to define our rights as we see fit and to resolve injustices as they arise. Health care reform ought not be a topic of political or historical discussion; rather, it should be a matter of morality and compassion. As evidenced by the United Nations' Universal Declaration of Human Rights, the world is moving toward recognizing health care as a human right, and

once our American ideals are reconciled with the reality of our broken health care system, the United States can finally do the same.

Ideals are certainly nice and are undeniably an integral part of social innovation, but they rarely amount to anything outside the context of reality. Carla and the AFCM may believe that by upholding the ideals of the Constitution that they are acting in the best interest of society, but this is simply not so. The health care system is indisputably broken, for it is failing 46 million Americans at any given time. Upholding ideals alone will do nothing to assist those 46 million, and thus cannot be considered acting in the best interest of society. The reverse is also true; reality without ideals to drive its evolution rarely amounts to effective social innovation. Jason and the Anti-Universal Coverage Club may believe that by purely focusing on reality they are acting in the best interest of society, but again, it simply does not work that way. Reforming the health care system without idealism will only result in more problems, and it will ultimately lead to a system that inhibits the common good rather than adds to it. Thus, because my proposed solution to the health care problem keeps the above in mind, I believe that it is not only theoretically sound, but I feel that Carla and Jason's arguments prove my solution can be realistically workable as well.

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The state of America's health care system has reached unprecedented lows, and it cannot be allowed to continue on this downward trend. The United States has always prided itself on its modernity, its innovation, and its opportunities. The fact that the health care system of this same nation is in shambles is inexcusable, and the fact that

American citizens are allowed to die because they cannot afford health care is abhorrent. As one of the most prosperous nations in the world, it is the moral responsibility of the United States to pursue a better health care system, one in which justice reigns and American citizens are treated with the dignity and respect they deserve. It is an uncontested fact that this is a daunting task, and though I feel my adaptations to Trappenburg's approach makes for a decent approach to health care reform, I know there will always be adjustments and improvements that can be made to the standing system. Still, I know that the system can be changed for the better, and I think that one of the keys to modern health care reform is not to tackle such an overwhelming problem all at once, but rather to approach the problem slowly by implementing small, manageable changes. The fruitful interplay between idealism and realism is what will guide the process of determining what changes need to be made and hopefully, the accumulation of reform measures will one day result in the establishment of the best health care system. After all, when the idealism of American greats such as John Rawls is combined with the reality and the example of other successful nations as a guide, anything is possible. As Martin Luther King, Jr. once said, "Of all the forms of inequality, injustice in health care is the most shocking and inhumane." The health care system will not change overnight, but it is not expected to. America simply needs to work determinedly for a medical system in which patients are more important than their money, and in which the ultimate goal is to heal the person. This is, after all, what lies at the heart of medicine, and it is to this we must ultimately return.

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