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Disciplinary Brief

JUSTICE AND PUBLIC HEALTH

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Public health has been defined “the art and science of preventing disease, prolonging life and promoting health through the organized efforts of society” (Acheson, 1988; WHO). The term “public health” might thus concern the *study* of preventing disease, prolonging life and promoting health, or the actual *practice* of doing so through the organized efforts of society. The term can also denote the actual state of affairs concerning the health of the public, i.e. the health of a certain population. Health arises in part as a natural state through the operation of normal biological processes, but is shaped in part by access to resources that allow for the promotion and maintenance of health and to resources that allow for the restoration of health. Health itself is constitutive of well-being but also is also important instrumentally in the capacity to attain other goods and ends.

Considerations of justice within public health arise in part in the context of human subjects research, in part because various resources are advantageous in the maintenance and restoration of health, and in part because health is both intrinsically and instrumentally related to well-being. With regard to research, the Belmont Report (National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research 1979) put forward justice, along with beneficence and respect for persons, as one of three ethical principles to guide human subjects research. However, perhaps more profoundly, justice is relevant within public health because of considerations of the *distribution* of health and health-related resources, which often, in public health contexts, fall under the rubric of “social justice”. Because health is shaped in part by access to resources, and because health itself affects our capacity to attain various good and ends, and because public health involves the organized efforts of society to bring about health, public health must fundamentally be concerned with justice.

As discussed by Wolterstorff (2021), considerations of justice and of the pursuit of justice are also fundamental to the Christian faith. How might then a Christian understanding of justice overlap with, be in tension with, and potentially extend beyond understandings of justice within public health? In this essay, I will briefly consider the concept of justice as it relates to health and public health efforts, and will relate Christian teachings on justice to notions of justice and rights that are commonly held within public health. I will focus principally on the principles put forward in the World Health Organization’s Constitution (WHO, 1946).

The Concept of Justice

Wolterstorff (2021) considers various accounts of justice. His favored notion, from the Roman jurist Ulpian is that “justice is a steady and enduring will to render to each his or her due [or right].” He argues against the notion of justice, found in Aristotle and elsewhere, that justice consists of the equitable or fair distribution of benefits and burdens. However, if those benefits and burdens are themselves understood as respect for rights then the two definitions are effectively equivalent (see also Aquinas 1274/1948 II.II.Q58.1; II.II.Q57.1). Understood thus, justice may pertain to a *state of affairs* in which each has received his or her due; an act, one which respects rights, or renders to each his or her due; a virtue, the habit of acting with a steady and enduring will to render to each his or her due; or potentially the acts or restitutions required to return to the state of affairs in which each receives his or her due after such a state of affairs has somehow been disrupted.

Justice has sometimes been understood as fairness within the public health context (Daniels, 2008). If fairness is again understood as fairness or equality *with respect to rights*, then this may indeed be a reasonable conception. Justice with respect for health cannot involve perfect equality of health, which would be both practically unobtainable but could also lead to perverse attempts at reduction to the lowest common attainable standard (Parfitt, 1998; Kass et al., 2015). Wolterstorff (2021) relatedly comments that equity alone does not make distributions just or unjust. However, once again, if justice with respect of health is understood to concern equal respect with regard to rights, then this might be a reasonable way to conceive of justice in the public health context.

Rights to the “Highest Attainable Standard of Health”

Principles of the WHO.

The World Health Organization (WHO) 1946 Constitution puts forward the principle that “The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.” The notion of the “highest attainable standard of health” may be interpreted in a way that recognizes that perfect health, and perfect equality of health, may not be attainable. What is “attainable” respects the constraints of nature. Moreover, what is “attainable” may also be understood in a way that respects the freedom of individuals to potentially act in ways that may be contrary to their health, thereby altering what is attainable. What is attainable may also be relative to the resources that are available (Hunt et al., 2015) and indeed the United Nations Committee on Economic, Social and Cultural Rights has subsequently gone some way in specifying what the right to the “highest attainable standard of health” might be understood, in practice, to entail (UNCESCR, 2000). However, even with these caveats, “highest attainable of health [for a given individual]” is a relatively high bar. The notion that the enjoyment of such a standard of health is a *right* is thus one that needs careful consideration.

Intrinsic and Instrumental Goals of Health.

Nevertheless, because of not only the intrinsic, but also the instrumental role of health in well-being, a commitment to the highest attainable standard of health for all is a laudable goal, one which the Constitution declares is “basic to the

happiness, harmonious relations and security of all peoples.” Health is not only a good that requires justice in its distribution, but one that has implications for justice in the distribution of other goods. The Constitution goes on to state “The health of all peoples is fundamental to the attainment of peace and security and is dependent upon the fullest co-operation of individuals and States. The achievement of any State in the promotion and protection of health is of value to all. Unequal development in different countries in the promotion of health and control of disease, especially communicable disease, is a common danger.”

The Constitution further notes the importance of the “healthy development of the child” perhaps implicitly acknowledging the role of the family in ensuring this right to the highest attainable standard of health, and goes on to emphasize the dissemination of health-related knowledge to all people, active cooperation on the part of the public, and the responsibility of governments. The Constitution itself establishes the World Health Organization and states as its objective “the attainment by all people of the highest possible level of health.”

It is not entirely clear from the Constitution itself what the grounds are for this purported right. In the terms employed by Wolterstorff, it is unclear from the Constitution whether the right to “the highest attainable standard of health” is being viewed as a non-conferred human right, or is being proposed as a positive right for States to adopt, or is being put into place as a conferred right that the World Health Organization is itself establishing and taking responsibility for.

Whose Responsibility for Rights to Health?

As noted by Wolterstorff, rights also entail duties or responsibilities. One interpretation as to what is being envisioned is that this right to “the highest attainable standard of health” is to arise from some combination of both non-conferred and positive rights. The World Health Organization’s constitution seems to recognize that the responsibility for attaining the “highest attainable standard of health” lies in part with the individual but also with the broader community, and communities perhaps ranging from the family, to the public health community, to the State, to the World Health Organization itself (cf. Hunt et al., 2015). Each person arguably has the natural right, barring instances of another’s rights being violated, to not be intentionally harmed by other individuals. Parents have both rights and responsibilities to care for their children. A well-functioning state will arguably establish positive rights to various health-related resources. As noted above, the World Health Organization’s Constitution seems to use language that effectively establishes rights conferred by agreement of the World Health Organization and member states. The combination of these might be taken then as establishing a right to the “highest attainable standard of health” that is itself constituted by various natural rights, positive rights, and conferred rights.

Health as Wholeness

Having considered the notion of rights, let us now turn to the notion of health. How is health itself to be understood? The Constitution’s first principle is in fact, “Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” From a Christian standpoint, and from that of many other world religious traditions, that definition should perhaps be extended to “Health is a state of complete physical, mental, social well-being, and *spiritual* well-being” (Larson, 1996; Cloninger et al., 2010; VanderWeele, 2017a). Understood thus, health might be

conceived of as wholeness of a person, effectively synonymous with flourishing (VanderWeele, 2017b; VanderWeele et al., 2019a). This might be contrasted with a narrow conception of health involving the *health of the body* (VanderWeele et al., 2019b) or wholeness of the body. Both the broader and the narrower conceptions are arguably found in ordinary language.

The broader conception of health as a state of complete physical, mental, social, and spiritual well-being might be viewed within a Christian Biblical understanding as that of shalom (Wolterstorff, 2021). The complete health or wholeness of the person is life lived according to God's intent. Such a broad conception, inclusive of social well-being, arguably entails also a well-functioning community, one that is just. Justice is thus needed to help ensure a right to the highest attainable standard of health or well-being is realized, but justice (concerning health and other matters) is in fact also constitutive of the health or wholeness of person, and of his or her community, of shalom.

Shared and Divergent Goals with the Public Health Community

Shared Goals

Many of the goals and principles of the public health community are in strong alignment with Christian principles. Goals of child development, prevention of disease, promotion of physical and mental health, harmonious relations and security of all people are arguably goals shared in common by the international public health community and Christian churches. Likewise, principles such as special attention and care for those who are worst off, and respect for the freedom of people, would likewise be shared by these communities (Catholic Church, 2004). Both sets of communities are concerned with justice and there is notable overlap as to how justice is understood.

Divergent Goals

Nevertheless, the set of ends pursued by these communities and the relative weight or importance given to each do vary. The ends of public health organizations do not typically extend to spiritual well-being, whereas religious communities will characteristically prioritize spiritual well-being over other goods, and over physical health. Public health organizations can recognize the spiritual ends sought by religious communities, without necessarily actively advancing them, by respecting and ensuring religious liberty. Nevertheless, tensions between public health organizations and religious communities can arise when these ends of the health of the body, and of spiritual or religious well-being potentially come into conflict.

An ongoing tension within public health ethics is the extent to which individual freedoms or autonomy can be compromised for the sake of community health (Kass et al., 2015), an issue considered also further below. Justice understood as the state of affairs in which each has been rendered his or her due, or in which the rights of all have been respected, would include not only respect for a right to "the highest attainable standard of health" but also all other rights, including the right to the free practice of religion.

Bearers of Rights and Christian Tensions within Public Health

An area of substantial tension between public health communities and traditional Christian teaching concerns abortion. The majority view within the international public health community is that individual rights for women entail "reproductive

rights” which is often understood to include access to safe abortion. The World Health Organization present position concerning abortion is that “Every individual has the right to decide freely and responsibly – without discrimination, coercion and violence – the number, spacing and timing of their children, and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health... Access to legal, safe and comprehensive abortion care, including post-abortion care, is essential for the attainment of the highest possible level of sexual and reproductive health.” (WHO, 2021).

Such an understanding of rights is in strong tension with the vast majority of the Christian tradition and teaching on abortion (May, 2008), much of which has emphasized the respect for life from the moment of conception until natural death. Under this understanding, the embryo is a human person in development and, as such, has rights, the most fundamental of which is the right to life. Such a right to life would obviously contradict the notion that reproductive rights include a right to abortion.

Of course central to this dispute is who is a bearer of rights and, even more fundamentally, what is a human person? This is arguably first a metaphysical question and second an ethical question. It is not one that can be settled on scientific grounds. Most of the Christian tradition has insisted that from the time of conception, the embryo is a human person in development and the bearer of rights and thus in almost all circumstances it is wrong – unjust – to intentionally put an end to this life. This human person in development likewise has a right to the “enjoyment of the highest attainable standard of health” and health itself presupposes life.

However, if both the mother and the embryo or fetus has the right to the enjoyment of the highest attainable standard of health, this itself creates responsibilities for the community – for the public health community, for the state, for the father, for friends, for the extended family. All are to work to attain the highest attainable standard of health for both the mother and the baby. Justice – respecting the rights of all – requires work to make such health possible.

Individual Rights versus the Common Good in Public Health

In the case of abortion, tensions concerning rights and justice, potentially arise because of differing metaphysical and ethical positions concerning the notion of persons and the bearers of rights. However, other tensions concerning rights and justice arise within public health and concern individual rights, freedoms, and interests weighed against community interests. A fundamental question that arises in this regard is whether and the extent to which individual rights can be set aside or are suspended for community interests (Lappe, 1986; Kass et al. 2015).

One idea that has been put forward to navigate this question is that of “proportionality” (Faden and Faden, 1978): the idea that the burden posed by (particularly non-voluntary) interventions should be low and benefits high. This idea has been used to argue that incentives should be favored over disincentives, education favored over manipulative messages, and government intervention ought not occur without considerable evidence about effectiveness. While some have subsequently advocated for voluntary approaches being the only approaches acceptable, counter-arguments have been put forward that since other outside influences can encourage people to alter their preferences unknowingly, coercive measures or potentially manipulative messages are sometimes needed counter these in the interest of public health (Kass et al., 2015). Personal interconnectedness and the mutual influence that people have on one another, both in

general in thought and behavior, but also concerning contagion and infectious disease, complicate these matters yet further. These issues have of course been evident in discussions of balancing individual rights with the common good in the recent Covid-19 pandemic.

These questions of course come down to questions of the rights of individuals and what is owed to individuals by the government both with regard to freedoms but also with regard to preservation of the common good. These are questions of justice. The answer to these questions are not always easy to discern, but they are central to matters of the promotion of public health and the freedom of people to pursue other goods and ends, that may themselves perhaps be viewed as constitutive of health in its broader sense.

Love and Justice in Public Health

Justice Alone will not Suffice

If public health is ultimately aimed at achieving the “highest attainable standard of health” for all, then it is in fact not clear that a focus on justice alone will suffice. A person acts justly by acting so as to render each what is his or her due. This will inevitably entail not intentionally doing harm to another, and doing what is within one’s reasonable ability to help others in one’s community. Attaining health for all will require justice, both so as not to harm the well-being of others and as a constitutive part of what is entailed by the wholeness or well-being of a person and of a community. However, there is only so much an individual can do promote the “highest attainable standard of health” for another.

Any chance of achieving this will require the action of communities and institutions. As noted above, the right to the “highest attainable standard of health” might be viewed as arising out of some combination of human rights, the positive rights granted by governments, and the rights conferred by institutions. However, if health is to be understood as “a state of complete physical, mental and social [and spiritual] well-being,” then it is not clear even just actions of individuals and well-intentioned policies and interventions of institutions will suffice. If health includes social well-being, more than this may be needed.

Health and Wholeness Require Love

Social relationships are arguably most powerfully and adequately formed out of love, out of a disposition to desire the good for the other and union with the other (Aquinas, 1274/1948, I.II.Q26.4; Stump, 2006). Likewise, from a Christian understanding, attaining spiritual well-being requires charity – a love for God – along with the presence of God’s grace and love, characteristically mediated in and through the Church community. Health, understood as the wholeness of the person, requires love.

Love for another will entail justice (cf. Wolterstorff, 2015). One does not properly love the other, or God, if one is not respecting the other person’s rights. But love entails more than justice; it entails a disposition towards willing their good, and to be with them, resulting also in an affirmation of the goodness of their being (Pieper, 1974). It is what almost all persons seek; it is the fabric of social well-being. It is the foundation of spiritual well-being. It is for this reason that the New Testament and Christian teaching put love – love of God and love of neighbor – at the foundation of all of the law, of

all of ethics (Matt. 22:37-40; Rom. 13:9-10). The wholeness of persons requires justice, but it requires more than justice. It requires love.

Relationships Profoundly Contribute to Health

Love – love of neighbor and love of God – is also needed for health because it is arguably a powerful resource for physical and mental well-being as well. There is now ample empirical evidence that social relationships themselves and participation in religious community (i.e. social and spiritual well-being) profoundly contribute to both physical health and mental health (Holt-Lunstad et al., 2015; VanderWeele, 2017). Social and spiritual well-being are perhaps amongst the most powerful, but neglected, forces for attaining physical and mental health. If we are committed to trying to achieve the “highest attainable standard of health” for all, this will require love. It will require love because love is the foundation of social and spiritual well-being and it will require love because this also powerfully shapes physical and mental well-being also. The only way to adequately attempt to preserve and support the partially conferred right to the “enjoyment of the highest attainable standard of health” is to look beyond rights and beyond justice – it is to look to love. We must seek a just society – yes – but we must also seek to create a civilization of love (Catholic Church, 2004).

Wholeness Requires Healing from Injustice

Finally, the wholeness of persons and of communities also requires love also because we, as individuals and as communities, are in need of healing. We are in need of healing because there are injustices; there are wrongs; there are hurts. From a Christian understanding, we are in need of healing because there is sin. The administration of justice understood as the acts of punishment or restitutions required to return to the state of affairs that is just can go some way; but it does not fully heal. It alone is often not sufficient to restore a person to wholeness; it often does not heal the relationship or the community. For that we also need forgiveness, understood as the replacing of ill-will towards the offender with good-will, and thus itself a form of love (Stump, 2006). It is in such forgiveness that we are released from the offense and the offender, that healing can occur, and that relationships can, when appropriate, be restored. Forgiveness is not incompatible with justice or with punishment; one can forgive and desire the ultimate well-being of the offender, and yet still seek a just outcome. But forgiveness frees the victim, promotes his or her mental health (as now demonstrated by ample empirical evidence cf. Toussaint et al., 2015; Long et al., 2020), and opens the way for a restoration of wholeness to the individual and the community. In our fallen world, forgiveness is needed for the attainment of health and well-being, and is needed for the restoration of relationships with one another. It is part of Christian teaching that forgiveness is also what is ultimately needed for spiritual well-being, for a restored relationship with God, for a restoration to wholeness as God intended. It is a restoration mysteriously accomplished, and in accord with God’s justice, through the life, death and resurrection of Jesus Christ. Our love is needed to bring about physical, mental, social and spiritual well-being. But God’s love and forgiveness is also needed to bring about this complete restoration to wholeness as well. The highest attainable standard of health cannot be brought about without love.

Summary: The End of Health Requires Justice and Love

Justice is constituted by the state of affairs in which each is rendered his or her due. Justice is relevant in considerations

of health both with respect to the resources that sustain health, but also with regard to health itself being instrumental in the attaining of other goods and ends. Acknowledging a right to the “highest attainable standard of health” involves a combination of natural rights, positive rights, and conferred rights. If health is to be understood as wholeness of the person – as a state of complete physical, mental, social, and spiritual well-being – then this will require the practice and pursuit of justice so as to avoid harm, preserve and promote health, and to create a well-functioning community. However, the end of health – understood as the wholeness of a person – requires more than justice; it requires love. Love does not neglect justice, and is compatible with justice, but it extends beyond justice to affirm the goodness of being of the other, to foster social and spiritual well-being, to enable physical and mental health, and to promote the wholeness of the person and of the community according to God’s intent.

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