

2011

# Theories of Justice to Health Care

Jacob R. Tobis

*Claremont McKenna College*

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## Recommended Citation

Tobis, Jacob R., "Theories of Justice to Health Care" (2011). *CMC Senior Theses*. Paper 181.  
[http://scholarship.claremont.edu/cmc\\_theses/181](http://scholarship.claremont.edu/cmc_theses/181)

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## CHAPTER 1: Introduction

In this thesis, many topics will be discussed and a variety of philosophers will be mentioned. The main goal of this thesis is to determine a health care plan that fits with the theories of Robert Nozick, Arthur Ripstein, Norman Daniels, and Amartya Sen. I conclude that Ezekiel Emanuel's health care plan, The Guaranteed Healthcare Access Plan, can be used as a compromise between the views of each of these philosophers.

In reaching such a conclusion, I take many steps. I begin with the explanation of theories of justice and their focus. I then turn to the important distinction between rights and ethics. Next, I explain that often closely held values come into conflict with one another. Then, I turn to the specific philosophers and their theories. Beginning with Nozick, I explain the justification for a state and how this justification is important for all four of the philosophers. Afterwards, in turn, I lay out what each philosopher claims in regards to a just society and the role of a state, his justification for such claims, and the results of such claims specifically in regards to health care. Subsequently, I examine the connections between philosophers, which help me understand the ways a health care system could be instituted to appeal to all four of them. After questioning if a just society can really exist in a limited world, I decide what type of health care system such a just society should implement. Finally, I rest on Ezekiel Emanuel's plan, which I believe should be implemented in a just society and which best demonstrates the common ground between the four philosophers I discuss.

Without taking these steps, I doubt I would have been able to come up with this conclusion. Each step was needed to understand the next step.

The distinction between rights and ethics and the potential conflict between such rights allowed me to better understand each of the theories. Consequently, laying out each of the theories allowed me to see clearly the connections and differences between them. Once I understood these connections and differences, I understood where the theories were in tension with one another and was able to take the final step of discovering a health care system that relieved some of those tensions.

### **Theories of Justice**

“Any substantive theory of ethics and political philosophy, particularly any theory of justice, has to choose an informational focus, that is, it has to decide which features of the world we should concentrate on in judging a society and in assessing justice and injustice”<sup>1</sup>. What such a focus rests on has consequences for what is implemented under such a theory. The focus of a theory usually is defined as a right, something that must be met and is a basis for the theory. Such a right is distinct from a suggestion or preference. Rather, it is a requirement and must be fulfilled. What results from that requirement, whether it is public provision of health care and public education or a more restricted role of the state, is justified because of that right.

Before delving into the focuses of a number of theories to figure out what the role of the state should be in providing for the general public, I will attempt to clarify the importance of the focus of any theory by showing the distinction between right conduct and ethical conduct. Whether or not a given philosopher defines his or her focal point as a right is not what I am debating. Instead, I think that most theories, and definitely the ones

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<sup>1</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 231.

that I will examine, are focused around a concept of requirement as opposed to suggestion.

### **Rightful Versus Ethical**

Arthur Ripstein makes clear the difference between rightful conduct and ethical conduct. In essence, rightful conduct can be required while ethical conduct can merely be suggested. Ripstein, channeling Kant, explains, “Ethical conduct depends upon the maxim on which an action is done; rightful conduct depends only on the outer form of interaction between persons”<sup>2</sup>. The incentive to perform ethically is only in being moral itself while the incentive to perform rightfully can be increased through regulation and requirement. Therefore, our duty to be ethical cannot be enforced by others but our duty to be right can and, Ripstein will argue, should be enforced. Ripstein then explains that it is principles of right that can and should govern people while principles of virtue or morality simply cannot do so. Kant, and therefore Ripstein, is concerned “not with how people should interact, as a matter of ethics, but with how they can be forced to interact, as a matter of right”<sup>3</sup>.

It is not just Kant and Ripstein who are concerned with such a distinction. The theories that I will lay out later in this paper do not offer suggestions on how society ought to function. Rather, they attempt to convince the reader that society must be run in the way described. Allen Buchanan also makes the distinction between rights and virtues. He makes it clear that although one ought to perform certain actions, there is not

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<sup>2</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 11.

<sup>3</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 14.

necessarily a right that requires him to do such an action. Buchanan refers specifically to the right of a decent minimum of health care. He explains that although it may be true that everyone ought to have this decent minimum, it is wrong to force the provision of such health care because it is not a right<sup>4</sup>. He does think it is a right to legislate various components that would likely lead to provision of health care but he does not believe there is a true right to the provision of health care<sup>5</sup>. Whether this comment is true or not remains to be discovered but the point I want to take from Buchanan is the distinction. What we ought to do is what Ripstein describes as ethical conduct and what we can be forced or required to do is what Ripstein describes as rightful conduct. Such a distinction is important for this essay. Everyone would agree that if someone is dying, we ought to help that person live. On the other hand, it is more controversial<sup>6</sup> to say that if someone is dying, we are *required* to help that person live.

Now that it is clear that the requirement of rights are what will form societal decisions and not suggested ethics, the next step is to decide what specific rights are. The right to healthcare that Buchanan discusses above is central to this paper but it will not be examined specifically until later. Rather, we must come up with the overarching principles of right, what those principles entail, and then figure out how best to enforce

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<sup>4</sup> Allen Buchanan, "The Right to a Decent Minimum of Health Care," *Philosophy & Public Affairs* (p. 66) 13, No. 1 (Winter, 1984), <http://www.jstor.org/stable/2265199?origin=JSTOR-on-page> (accessed January-April 2011).

<sup>5</sup> Allen Buchanan, "The Right to a Decent Minimum of Health Care," *Philosophy & Public Affairs* (p. 66) 13, No. 1 (Winter, 1984), <http://www.jstor.org/stable/2265199?origin=JSTOR-on-page> (accessed January-April 2011).

<sup>6</sup> Even if many would agree.

the results of the principles. What each theory suggests should be based on the notion of rights and not simply on actions or behaviors we take to be moral and ethical.

To determine what specific rights there are and whether there is an overarching principle that encompasses these rights, I have studied a variety of theories. I will mainly refer to only four theories in this essay because they all examine similar issues, they all have deep connections despite their residual differences, and I generally identified with the values and rights in each of them. The theories are that of Robert Nozick – who appeals to the right of personal freedom, Arthur Ripstein – who focuses on the right of independent freedom, Norman Daniels – who focuses on the right of equal opportunity and the needs associated with normal functioning, and Amartya Sen – who focuses on the right of freedom of capabilities. Each of these theories not only explains how one can be advantaged in society, but also explains why such advantages should be protected and required on the basis of right. For example, Nozick believes that personal freedom is important and those that have personal freedom are better off than those who do not. Further, this personal freedom must be upheld as a right and not simply as something that is good or constitutes an advantage.

After determining what rights should be in place, the next step is to figure out whether such rights lead to specific policies like the provision of health care and what the role of the state is in upholding such policies. If a theory based on a true right does in fact lead to the provision of health care, it seems clear that the state, or some central authority, must ensure that health care does get provided. If it does not, then provision of health care is simply not required under rightful conduct but is just suggested under ethical

conduct. Therefore, when we determine what is really a right, the policies resulting from that right must be upheld.

### **Conflicting Values**

Unfortunately, when determining what should be required as a right, we run into conflicting values. Many of us inherently believe in certain general principles. The problem arises when these principles conflict with each other. Most people, especially in America, believe that we each should be free to make independent decisions about our own lives and persons. Many also believe that we should be free to pursue opportunities. Regrettably, these core values come into conflict with one another and so both cannot be pursued completely as rights. If they both are rights, then we would be required to give people the opportunities to be free, which could infringe on my decision on what to do with myself. We would also be required to not infringe on others' decision on what to do with their own persons, which could infringe on the choice of opportunities others have to be free. Both Nozick and Ripstein appeal to freedom as a fundamental right but both understand this conflict. That is why, to ensure less clashing, both philosophers call for regulation by a central authority. The extent of regulation the two argue for is very different but they both understand the need for it. Moreover, Daniels, who advocates for pursuing opportunities, also understands the dilemma and tries to limit the restrictions of personal freedom. Although they understand the conflict, the philosophers often just bite the bullet with regard to the value that they do not promote. This is seen clearly with Nozick as he claims that under his theory, those who are not well off are not aided in any way besides through charitable actions.

Another way to look at conflicting beliefs is in terms of equality. The belief that each should have the same opportunities as everyone else can come in conflict with the belief that each should have the same liberties as everyone else. If I am poor and you are well off, we do not have the same opportunities so you should be required to help me gain opportunities. However, by doing so, your liberty is restrained whereas my liberty is increased at which point we would no longer have equal liberties. On the other hand, if you were not required to assist me with my opportunities, I clearly would not have the same opportunities that you have. Amartya Sen attempts to escape this conflict of equality. He is willing to sacrifice equality for efficiency and the promotion of what makes a person better off. Sen explains that capabilities to pursue lifestyles make people better off. Rather than require each to have an equal amount of capabilities, Sen allows the possibility of unequal capabilities in return for greater efficiency in enhancing capabilities<sup>7</sup>. In this way, opportunity and liberties are not in conflict with one another but Sen's theory could result in both values being limited.

No matter how they are described, whether it is in terms of freedom, equality, or a combination of both, beliefs that seem so clear in principle can come starkly into conflict with each other. One attempt to reconcile these problems is to introduce the idea of a central authority. The four theories I will examine all call for some role of a central authority. Without a government, we would be left to figure out for ourselves when to act on one value versus another. In justifying a central authority, I will appeal to Nozick's arguments but make clear that such justification is important for all of the philosophers.

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<sup>7</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 298.



## CHAPTER 2: Theories and Application of Health Care Provision

Before turning to Nozick and the justification of a state, I will explain my goal for the following section:

The disagreement on the subject I am tackling is widespread. Even something as seemingly simple as the distinction between ethical conduct and rightful conduct that I discussed earlier is not universally agreed upon. Despite this, the four philosophers I examine can be looked at together because of their interconnectedness and how they all work on more or less the same framework. Of course, there are residual differences between the philosophers but I will attempt to isolate the connections that are intricate to each philosopher's argument. The similarity between the theories is seen in each philosopher coming up with a condition that a just society should strive for. Ripstein refers to this condition as the "rightful condition"<sup>1</sup> and I will do so as well. It is a condition that is based on the core focus of the theory. Each condition is based on a certain principle or right that must be adhered to in order to satisfy that rightful condition.

Beginning with Nozick's justification for a state, I will lay out the theories presented by Nozick, Ripstein, Daniels, and Sen below. I will explain each of their rightful conditions, their reasoning for such conditions, and explain the results of the conditions including whether health care would be provided.

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<sup>1</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 267.

## Robert Nozick

I have studied Robert Nozick by reading his book “Anarchy, State, and Utopia”. In this book, Nozick discusses the justification behind the role of the state. He determines such a role by appealing to the rights of individuals. Those rights are “so strong and far-reaching...that they raise the question of what, if anything, the state and its officials may do”<sup>2</sup>. He ends up justifying what he calls a “minimal state” but explains that anything more is excessive and unjust. Coming up with a justification for a state is important for Nozick but it also has important implications for the three other philosophers. Without such a justification, any actions taken by the state would not be justified. In fact, if a state were not justified, it would only exist if it naturally occurred. In this situation, the state could only do what it naturally would do, and nothing more. With such an outcome, none of the theories below could be successful and a health care system implemented by the state would clearly be out of the question.

### *Justification for a Minimal State*

Nozick arrives at his justification for a minimal state by beginning in John Locke’s anarchic state of nature. He determined what nonstate situation to focus on by examining one in which people generally act as they ought to<sup>3</sup>. He believes that Locke’s description of that situation “is the best anarchic situation one reasonably could hope for”<sup>4</sup>. This situation is not overly optimistic in that it is not assumed that everyone acts as

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<sup>2</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), ix.

<sup>3</sup> Remember the distinction between ethics and rights. Those in this state do as they *ought* to but they cannot and are not *required* to do so.

<sup>4</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 5.

they should, but it is also not too pessimistic in that it believes people will generally act ethically. The next step after determining this situation is to understand its defects and benefits. With this information, we can decide whether a state should be created or whether anarchy should be allowed to reign. Nozick sums it up:

If one could show that the state would be superior even to this most favored situation of anarchy, the best that realistically can be hoped for, or would arise by a process involving no morally impermissible steps, or would be an improvement if it arose, this would provide a rationale for the state's existence; it would justify the state.<sup>5</sup>

Nozick is not attempting to show how a state arises from a state of nature naturally and inevitably. This type of theory would not be a justification for the state but instead would simply explain that the state will exist<sup>6</sup>. As mentioned earlier, Nozick, and many other philosophers, require a theory that actually justifies the existence of a state. If it is only shown that a state will exist, it is hard to justify calling on the state to extend its reach beyond its nature.

Nozick has a well laid out argument for the justification of a state that involves a number of steps. He explains the natural course of society from the state of nature and explains why such a course does not bring about a state but does need a state to ensure that people's rights are not violated. Before a state is created, society begins in an anarchic situation and changes. From the state of nature, mutual-protection associations will arise where each member of the association will help every other member protect

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<sup>5</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 5.

<sup>6</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 5.

their rights<sup>7</sup>. The problem with such associations is that there is no requirement of a member's call for help to be of importance. Each member may feel threatened in different ways and inevitably; some members will not think it is worth it to come to the aid of another who constantly claims to need protection<sup>8</sup>. Thus, such associations will change and eventually, some will become dominant protective associations. These may come into conflict with each other and as a result, in a geographical area, one will be victorious<sup>9</sup>. Such dominant protective associations may resemble a state but Nozick believes that there are fundamental differences between these associations and states.

With each move from the anarchic situation to various associations, Nozick makes it clear that no rights are violated. Nobody is forced to use his means as someone else's ends. Unfortunately, allowing nature to run its course does not result in a state that protects those rights. Although the change to protection agencies does not violate rights, there is no obligation on people to respect the rights of those in and out of their agency. This then presents the need for a state.

Private protection agencies of the type described by Nozick differ from a minimal state because under such agencies, people would be allowed and able to enforce their own rights. Further, such agencies would not protect all the individuals within its territory<sup>10</sup>. A state has a monopoly on the use of force and extends its protection to all those within its geographical range. The state can oblige people to respect the rights of others. For example, the central authority can compel some people to pay for the

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<sup>7</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 13.

<sup>8</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 12.

<sup>9</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 16.

<sup>10</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 23.

protection of others. This raises an important question, “If some redistribution is legitimate in order to protect everyone, why is redistribution not legitimate for other attractive and desirable purposes as well”<sup>11</sup>?

Nozick explains that forcing people to pay taxes to ensure protection for all citizens is not an unwarranted violation of the rights of citizens. Instead, such compulsion is part of each person’s obligation to the state. Without such protection, the state would be required to compensate regularly for the violation of rights. When an individual disagrees with an agency, the agency will win because it is stronger but in its victory, the agency has violated the rights of the individual. To make up for this, the agency must compensate the individual and the best way to do so is to expand its protection to cover the individual<sup>12</sup>. Such protection would not be more costly than paying for the damage after the individual makes use of his rights. For example, the state will not allow an epileptic to drive to avoid a disaster even though the epileptic has a right to drive. To compensate for this, the state must “pay only the amount which when combined with the costs to the prohibited party of running his own private automobile is sufficient for taxis”, which is clearly less than paying for the potential lives lost if the epileptic were to drive and lose control<sup>13</sup>.

This is an important part of the transition to a state. With instituting obligations on individuals and compensating for requiring such obligations by protecting individuals,

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<sup>11</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 27.

<sup>12</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 111.

<sup>13</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 111.

the state preempts violations of rights<sup>14</sup>. Each citizen's obligation to the state is a requirement to respect the rights of others. Thus, an intricate part of the transformation from a protective agency to a state is rights turning into obligations.

Nozick has shown that to preempt against violating rights of individuals, the state enforces the obligation of each to respect everyone's rights and then also protects everyone bound by such an obligation. Additionally, he explains the need for a state when appealing to a situation between two individuals in the state of nature. They each have an opportunity to join a protection association and each will act to promote their own interest. The following matrix describes the options available to the individuals<sup>15</sup>:

Matrix 1

Person B

		Person B	
		Join	Don't Join
Person A	Join	5, 5	10, 0
	Don't Join	0, 10	x, x

As the matrix displays, each person ideally wants to end up in the situation where he has joined the association while the other has not. This makes that person dominant over the other. Unfortunately, the individuals will both try to obtain such a situation, so one of the two will be unable to join and his rights will be violated. To ensure that his rights are not

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<sup>14</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 111.

<sup>15</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 123-125.

violated, the state must be implemented. Specifically, the state must allow both to join in the state while ensuring that neither restricts the other from joining. Indeed, if a state were not implemented, the rights of individuals would be violated.

To further justify the need for the state, I have also come up with a situation involving two individuals in the state of nature. Rather than the situation be between two individuals joining an association, my situation is one in which two individuals have the choice to respect each other's rights. Again, the individuals act to promote their own interests. The following matrix describes the options available to the individuals:

Matrix 2<sup>16</sup>

Person B

		Person B	
		Respect	Don't Respect
Person A	Respect	2, 2	-2, 6
	Don't Respect	6, -2	x, x

As the matrix displays, each person ideally wants to end up in the situation where he is respected but does not respect the other. This is the definition of freeloading and is in the best interest of each individual. Because of this, each would attempt to make the other respect him while refusing to respect back but it is impossible to ensure that the other

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<sup>16</sup> If you respect someone, you lose 2 and if someone respects you, you gain 4 (Nozick claims his intervals between the numbers should not be taken seriously and I agree but the basic idea is represented).

would remain respectful. Therefore, a state should be implemented to ensure a mutual respect for all individuals' rights.

Both with Nozick's and my own matrix, the need for a central authority is seen. Individuals enter into a struggle between each wanting to gain the upper hand. Without a central authority, there is no way to ensure that Person A will respect Person B or that Person A willingly will allow Person B to also join the association. Without a state, the rights of these individuals will be violated.

Why can't we inflate these sorts of arguments for a minimal state to justify a more expansive state? So far, Nozick has explained the need for a state as a protector against the violation of rights. This will be useful for other philosophers, such as Ripstein, to justify the obligations of people to respect rights in other ways as well, including in providing health care. Nozick though clearly disagrees. He believes that the minimal state is all that is justified. He exclaims that even though rights are important, we should not simply try to maximize the overall amount of rights promoted. In other words, we cannot decide to sacrifice some for the sake of the overall good. Nozick explains, "there is no *social entity* with a good that undergoes some sacrifice for its own good. There are only individual people, with their own individual lives"<sup>17</sup>. No one is entitled to force something on you, even if it will bring about something better for others. Rather, the individual must get something for his sacrifice. Although many more questions stem from this exclamation, I focus primarily on why nothing more than a minimal state is justified.

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<sup>17</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 33.



Only a Minimal State

In Nozick's rightful condition, his minimal state, the central authority is "limited to the narrow functions against force, theft, fraud, enforcement of contracts, and so on"<sup>18</sup>. If the state were to act beyond such functions, the state would violate the rights of its people, specifically, the right to "not be forced to do certain things"<sup>19</sup>. Such a right cannot be violated by the state. Therefore, the central authority must be restricted to the functions of a minimal state and nothing more.

The reason why nothing more than a minimal state is justified comes from Nozick's principles of justice in holdings. These are the principle of justice in acquisition, of justice in transfer, and of rectification. They govern respectively the original acquisition of holdings, the transfer of holdings, and the rectification of injustice in holdings. Essentially, the principles ensure, "what each person gets, he gets from others who give to him in exchange for something, or as a gift"<sup>20</sup>. They have direct consequences on whether and how redistribution can occur. The holdings of a person are just if he is entitled to those holdings as determined by the principles. If each person's holdings adhere to the principles, the entire distribution of holdings is just<sup>21</sup>. If they do not adhere to the principles, the distribution of holdings is not just. Nozick explains that his theory does not entitle people "to each according to his \_\_\_\_\_", rather, his theory explains, "from each as they choose, to each as they are chosen"<sup>22</sup>. A minimal state is

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<sup>18</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), ix.

<sup>19</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), ix.

<sup>20</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 149.

<sup>21</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 153.

<sup>22</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 160.

needed but any more than a minimal state would violate the principles of justice in holdings and the rights of individuals.

If adhering to Reflective Equilibrium, the process of coming up with a theory that agrees with your most closely held considered judgments, we would assuredly not arrive at Nozick's theory. For example, if there is a baby on the side of the road face down in a puddle, most people believe that we not only *ought to* help the baby, we have an *obligation* to do so. This is in direct conflict with Nozick's principles. Another example on a larger scale is as follows: if someone has the cure to a disease that is wiping out the entire world, most believe that the person should be required to share the cure, that he has an obligation to save people. Nozick though simply claims that the person has no such requirement. It may be true that he *should* save people, but he cannot be *compelled* to do so.

Nozick makes use of his own example to explain why one cannot be compelled to aid others. He shows that distribution after voluntary transaction is justified and should not be tampered with by the state. When his principles are followed, the distribution that results is just. His example is as follows<sup>23</sup>:

First we must select a distribution to start with. Whatever distribution the reader particularly favors and believes is just should be what is chosen. Perhaps everyone has an equal share in this distribution. Many people really enjoy watching Wilt Chamberlain play basketball and are willing to give up some of their share to do so. After this occurs, whether it happens many times or just once, the distribution will have changed. Is this

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<sup>23</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 161.

new distribution just? Wilt Chamberlain will have much more wealth than anyone else and some, who were willing to pay over and over again to watch Wilt play, will have little or no wealth left at all. Should Wilt be required to give back what he has obtained through voluntary exchange? Nozick says no by explaining that the distribution is just. Everyone's holdings and transfer of holdings have adhered to his principles of justice in holdings so Wilt cannot be forced to give back the wealth he has accrued. Nobody was compelled to give up wealth to watch Wilt play and so the transfer of their money to Wilt was completely fair and just. Based on this, Nozick exclaims that any distribution resulting from voluntary transfers is just and the state has no role in altering such a distribution.

It is difficult to find fault with Nozick's Wilt Chamberlain example. It seems incorrect to say that the final distribution is unjust and yet most of us do not want to concede to Nozick overall theory. My dilemma with Nozick's example is not in the example itself but in how it is applied to his theory. I do agree that the final distribution in the Wilt Chamberlain argument is just. Further, I agree that any distribution resulting from voluntary transfers is just. In fact, there is nothing unjust about the transaction in Nozick's example because everyone decides to pay to watch Wilt Chamberlain completely voluntarily.

Where I differ from Nozick is in his application of voluntary transactions. I do not think that the transaction in Nozick's example is the same as many other transactions in society. For example, a poor father may decide to sell his house and clothes in order to have enough money to buy food to feed his children. Although the father does complete the transaction voluntarily in a technical sense, the distribution that results from the

transaction does not seem just. Is the transaction really voluntary? Without food, one cannot survive. It seems that the father had no choice in whether to sell his house and is forced to choose between shelter and nourishment. In this case, Nozick's argument that any distribution resulting from a voluntary transaction is just is not correct. In my example, the father technically completes a voluntary transaction but in my view, the transaction is not voluntary at all and the resulting distribution is not just<sup>24</sup>.

Nozick could avoid this objection by agreeing with my assessment that such a transaction by the father was not voluntary and thus the resulting distribution is not just. Ripstein, I think, tries to make this sort of argument in leading Nozick to a further extension of the state, but I do not think that Nozick would agree in this situation.

### *Results of a Minimal State*

Nozick's belief that each person has the right to not be forced to do certain things has direct consequences to the public provision of health care. In Nozick's rightful condition, "the state may not use its coercive apparatus for the purpose of getting some citizens to aid others"<sup>25</sup>. This statement makes clear that Nozick believes public programs and provisions are simply unjustified and if they were implemented, they would infringe on people's rights by altering a just distribution.

The health care system that would likely be implemented under Nozick's rightful condition would be one, I believe, that is market and consumer driven. The state would have no role in the provision of health care besides ensuring that each individual does not

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<sup>24</sup> Or at least not as clearly just as in Nozick's Wilt Chamberlain example.

<sup>25</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), ix.

have his rights violated. This would only occur if an individual was forced to purchase certain health insurance, or forced to refrain from buying health care services altogether. On a consumer driven type of system, this would never occur because the consumer would always have the choice of what to purchase and the resulting distribution would remain just.

That transfers between a very poor or ill person and a wealthy and healthy person are seen as voluntary seems incorrect to me. The worse off person has no choice in the matter for his wellbeing and it is possible that his life is at stake. Does a very poor or ill person really have the freedom to choose the health insurance he needs and desires? Technically, he does<sup>26</sup>, but to me there seems to be no choice involved. Similarly, there is no choice in the matter for the father to sell his house and clothes because without money for food, his family will starve. Ripstein attempts to pursue this line of thought in explaining that rights can be violated unless the state takes on a much broader role than the one required by Nozick.

### **Arthur Ripstein**

Arthur Ripstein expands on Nozick's idea and theory for the role of a state. His goal is to lead those like Nozick to a far more expanded state. In fact, Ripstein thinks that without this expanded role of the state, Nozick's right of individual freedom will be restrained and infringed upon. Ripstein begins by setting up his account of private right in a way that seems very similar to Nozick. In fact, his theory does not seem like something

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<sup>26</sup> And that is all it seems Nozick needs.

Nozick would object to until Ripstein describes the specific role of the state and the difference between a public and private right.

*Rightful Condition*

Ripstein attempts to use the Libertarian view of personal freedom to justify a completely different rightful condition than that of Nozick. To ensure personal freedom, Ripstein explains that it is necessary for the central authority to be far more expanded than they would be in Nozick's minimal state. To protect personal freedom fully, a central authority must be put in place to uphold laws regarding public roads and other public provisions. This would ensure that everyone's personal freedom is not being infringed upon. In other words, the state must ensure that no one is dependent on anyone else. My personal freedom is violated if you make a decision for me and use me as a means to your end<sup>27</sup>. Therefore, the central authority must require people to give up what is their own to support public projects such as roads and health care to ensure that no person, no matter how poor they happen to be, will be dependent on any other person.

At first, it seems as though Ripstein is contradicting himself in claiming that no one should be dependent on any other person and that nobody's means should be used for someone else's ends. There is no doubt that those who receive a public education or are provided with health care are dependent on such handouts. Further, if the state forces me to give up my resources that will be used by someone less fortunate than myself, my means are being used for another's ends.

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<sup>27</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 15.

Ripstein justifies his role of the state by explaining that by each contributing to the state, independence and freedom is increased<sup>28</sup>. Further, Ripstein sees his rightful condition as ultimately ensuring true freedom to all, which Nozick's rightful condition does not supply. Being dependent on the public entity is not losing one's independence because each is required to contribute to the public whole. If you rely on a private person for the provision of health care, you are subject to their whims because you need that health care. If you rely on the public state for the provision of health care, you have no whims of the state to be subject to besides contributing to the state and refraining from violating the rights of others in the state.

*Justification for Rightful Condition*

I will draw from two of Ripstein's works. In the first, "Force and Freedom", he discusses Kant's legal and political philosophy while in the other, "Roads to Freedom", he uses his findings with Kant to lead the Libertarian towards understanding the need for a broad role for the central authority.

Ripstein describes what should be meant by freedom and independence. He explains, "a slave with a benevolent master could be autonomous in a contemporary technical sense but a slave can never be independent, because what he is permitted to do is always dependent on his master's choice or grace"<sup>29</sup>. This idea of Kantian independence is akin, in Ripstein's mind, to Nozick's idea of freedom and "with individual freedom, the existence of the powers to displace individual judgment, officials

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<sup>28</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 25.

<sup>29</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 15.

and institutions making binding decisions on everyone, and the power to enforce such decisions are not only consistent but also required”<sup>30</sup>. Ripstein attempts to explain why we must be given the power to tell and force each to do what he or she is told in the form of laws. Such political power is legitimate and enforceable specifically because freedom requires it<sup>31</sup>.

Rather than rely on other people and lose one’s independence, each person in need must rely on the public authority. Ripstein claims that a system of private rights without a public authority is morally incoherent<sup>32</sup>. The conceptual requirements of private right<sup>33</sup> cannot be satisfied without a public authority entitled to make, apply, and enforce laws.

The reason this public authority can perform these actions while private parties cannot is that the public state is given unilateral authorization<sup>34</sup>. The people share a united will, which is necessary before creating laws and a state together. Nozick believes that the relation between individuals and the state should be no different than the relation between private parties. The Egalitarian believes that relations between private parties should be structured specifically to secure what is needed for equal distribution. Between the two, it seems the only options for redistribution rests on either “that Earth belongs to everyone in common or that private rights are tools for achieving the desired

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<sup>30</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 17.

<sup>31</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 29.

<sup>32</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 26.

<sup>33</sup> Security of possession, clear boundaries, and acquisition of property.

<sup>34</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 24.



outcomes”<sup>35</sup>. If this were the case, Kant, and therefore Ripstein, would be forced to oppose redistribution but Ripstein explains that the state is not just another private actor. Instead, the state must act to ensure a rightful condition where the private rights of private persons remain intact. The state must have the structure to bind all by it so it can rightfully claim to speak and act for everyone across time<sup>36</sup>.

Although there is an ethical duty to give to charity, there is no obligation to do so. Further, dependence on private charity is inconsistent with its benefactor and beneficiary sharing the united will that is needed to live together in a rightful condition<sup>37</sup>. The beneficiary is dependent on the choice of the benefactor. It is the state that must play the role that the benefactor would have.

### Results of Rightful Condition

As mentioned earlier, Ripstein claims poverty presents a problem. If you are poor, you cannot be independent from other persons. Society and the state must be set up so that everyone can be free. This includes, among other things, the need for a basic level of health care provided for all. Without such a provision, some will be forced to be dependent on others. A slave and someone who can only be sustained if others share their property with him are similar in that neither is free because each depends on others and does not have the means to set his own ends.

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<sup>35</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 270.

<sup>36</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 27.

<sup>37</sup> Arthur Ripstein, *Roads To Freedom* (University of Toronto: Not Published), 29.

Health care and support for the poor are only rightful conduct because it is required for a rightful condition. If they were not needed to secure independence, they would not be required under Ripstein's theory because his rightful condition requires securing independence and nothing more. Without such actions taken by the state, private persons are dependent on other private persons. This would mean that they are not free. A mandate to protect public health directly follows from the state's mandate to see to its own preservation<sup>38</sup>. Ripstein appeals to the Libertarian by explaining, "Rather than starting with an image of paternalistic government, charged with making people happy, and then introducing a list of exceptions, the Kantian account shows that the public use of power is only legitimate in the service of individual freedom"<sup>39</sup>.

With this knowledge, what type of health care system would be implemented under Ripstein's rightful condition? It would have to provide health care to all, provided by public means, and everyone would be required to obtain such care. A system I believe Ripstein would be satisfied with is a voucher type system. The government would provide a voucher to everyone and each person would be required to use the voucher on health care. A voucher system ensures that no one is dependent on another for health care services. Further, requiring the use of the voucher for everyone ensures that every person remains independent. If someone wants to deny a voucher and not receive care, the state can force that person to accept the care to ensure that person does not remain dependent

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<sup>38</sup> Arthur Ripstein, *Roads To Freedom* (University of Toronto: Not Published), 27.

<sup>39</sup> Arthur Ripstein, *Roads To Freedom* (University of Toronto: Not Published), 31.

on others. Similarly, the sane person who desires to become a slave can and should be stopped by the state because the person would lose their independence<sup>40</sup>.

The voucher system seems to work perfectly under Ripstein's rightful condition and yet the dilemma with such a system that stems from Ripstein's theory seems to be a problem. Ripstein is held to requiring his rightful condition even if it leads to huge inefficiencies or lacks in economic success and opportunity. If the only way to ensure that each is independently free results in misery and huge economic downturn, Ripstein is still committed to pursuing such a society. Nozick acknowledges this type of problem with his argument but he is willing to simply bite that bullet. Although he does not think such a situation would occur, Ripstein must also be willing to bite that bullet. Essentially, Nozick and Ripstein would have trouble balancing the needs of society. If supplying vouchers to each person for health care stunts the growth of society, Ripstein must remain committed to supplying and requiring the use of the vouchers. Ripstein must be willing to sacrifice other aspects of society to ensure independence for all.

### **Norman Daniels**

On Norman Daniels' account, Rawls' Veil of Ignorance is able to help with the balancing of various needs of society. With Ripstein and Nozick, the only need is that of freedom. If such a need does not provide or result in what we take for granted now, then they must live with such a conclusion. Daniels though seems to have a way to ensure his rightful condition fits with our considered judgments.

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<sup>40</sup> Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009), 279.

### Normal Species Functioning

Norman Daniels appeals to equality of opportunity for all rather than freedom for all. Daniels' rightful condition requires an equal level of opportunities so that each person can function normally. Advancing the opportunities of those who naturally have less than others is the main role of the central authority<sup>41</sup>. To do so, that authority must set up programs to provide health care and education. If these are not provided for, the opportunities of each person in society will remain vastly different and many will not be within the normal species functioning of their society. Under Daniels' rightful condition, opportunities must be leveled out and it is the central authority that is responsible for doing so.

### Justification for Normal Species Functioning

Daniels formulates his theory around the idea of needs. Needs are important to maintain normal species functioning, and in turn, such normal functioning is an important determinant of the range of opportunity open to an individual. Essentially, health care is one need that contributes to normal species functioning. The goal is to ensure that everyone is at least at the normal opportunity range of their given society<sup>42</sup>. In a well off society, such range is higher and more needs must be met than in a society not as well off. He defines this normal opportunity range in society as "the array of life-plans

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<sup>41</sup> Norman Daniels, *Just Health Care* (Cambridge: Cambridge University Press, 1985), 57.

<sup>42</sup> Norman Daniels, *Just Health Care* (Cambridge: Cambridge University Press, 1985), 27.

reasonable persons in it are likely to construct for themselves”<sup>43</sup>. The relevant features of society that help determine the normal opportunity range of that society include its stage of historical development, level of material wealth, technological development, and cultural factors among other things<sup>44</sup>. When we can identify what the normal opportunity range of a society is, it is easy to see those who do not meet that range. Whether it is because of lack of education, health problems, money issues, or something else, when someone does not meet that range, it is the role of the state to bring them up to that level.

Daniels goes further to explain:

It is not enough to simply eliminate formal or legal barriers...-for example race, class, ethnic, or sex barriers. Rather, positive steps should be taken to enhance the opportunity of those disadvantaged by such social factors as family background. The point is that none of us deserves the advantages conferred by accidents of birth-either the genetic or social advantages. They are morally arbitrary from a social lottery. To let them determine individual opportunity is to confer arbitrariness on the outcomes. So, positive steps, like education, are to be taken to provide fair equality of opportunity.<sup>45</sup>

Both Ripstein and Daniels see the importance of goods such as health care and education.

For Ripstein, they are important because they promote independent freedom while for

Daniels, they are important because they promote fair opportunity.

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<sup>43</sup> Norman Daniels, *Just Health Care* (Cambridge: Cambridge University Press, 1985), 33.

<sup>44</sup> Norman Daniels, *Just Health Care* (Cambridge: Cambridge University Press, 1985), 33.

<sup>45</sup> Norman Daniels, “Health-Care Needs and Distributive Justice,” *Philosophy & Public Affairs* (p. 166) 10, No. 2 (Spring, 1981), <http://www.jstor.org/stable/view/2264976?&Search=yes&searchUri=%2Faction%2FdoBasicSearch%3Ffilter%3Djid%3A10.2307%2Fj100428%26Query%3Ddaniels%26acc%3Don%26Search.x%3D0%26Search.y%3D0%26wc%3Don> (accessed January-April 2011).

The state must play a large role in Daniels' rightful condition to ensure that each person falls within the normal opportunity range of his or her society. Unlike Nozick and Ripstein who appeal to freedom, Daniels disregards freedom and focuses on opportunity. Because of this, Daniels seems better equipped to handle problems that Nozick and Ripstein face. It seems Daniels does not need to bite the bullets that undoubtedly face Nozick and Ripstein. This makes Daniels' theory an extremely attractive one.

His theory is attractive because it fits with many, though not all, of our considered judgments. Daniels appeals to John Rawls' Veil of Ignorance in which those within the veil do not know their place in society<sup>46</sup>. These people are charged with setting up society and each wants to set it up in a way that advantages him the most. Still, each does not know if he will be rich or poor and so ends up deciding upon principles that favor the poor and allow everyone a basic decent minimum<sup>47</sup>. Rawls believes that in such a situation, each will agree with the principles of ensuring everyone basic opportunities. Daniels expands this idea to health care by explaining that because no one knows if she will be old and sickly, young and vibrant, poor, or rich, a certain amount of health care should be supplied for all. In this way, Daniels justifies his rightful condition of ensuring everyone falls within the normal opportunity range of his or her society.

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<sup>46</sup> They do not know their age, social status, wealth, health and so on.

<sup>47</sup> Norman Daniels, "Health-Care Needs and Distributive Justice," *Philosophy & Public Affairs* (p. 167) 10, No. 2 (Spring, 1981), <http://www.jstor.org/stable/view/2264976?&Search=yes&searchUri=%2Faction%2FdoBasicSearch%3Ffilter%3Djid%3A10.2307%2Fj100428%26Query%3Ddaniels%26acc%3Don%26Search.x%3D0%26Search.y%3D0%26wc%3Don> (accessed January-April 2011).

*Result of Normal Species Functioning*

Daniels explains that health care is a special kind of good. Even though most social goods can or should be distributed unequally, health care, like education and other special goods of this sort, should be distributed equally<sup>48</sup>. Daniels does acknowledge that health care is a scarce resource and that it cannot be distributed to everyone completely satisfactorily. He sees the need to figure out which health care services are more important or special than others. If we simply rely on markets to govern such distribution, the health care that could be provided for<sup>49</sup> may very well be what is not as important. For example, it may be that the market results in brain surgeries as relatively inexpensive while heart surgeries become extremely expensive but it may be that performing heart surgeries increases opportunities far more than performing brain surgeries. The opportunities are what is important and not the random whims of the market so heart surgeries should be provided for or at least made more available than brain surgeries. Based on his idea of needs, Daniels explains that health care provision must be guided so not only do certain, more important, aspects of care get provided for, but those who need it most are given priority in receiving such health care<sup>50</sup>.

As mentioned earlier, to determine how to distribute health care, Daniels appeals to Rawls' Veil of Ignorance. Rawls tells us that after the overarching principles are decided upon, the veil becomes lifted slightly so information, such as the amount of

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<sup>48</sup> Norman Daniels, *Justice and Justification* (Cambridge: Cambridge University Press, 1996), 179.

<sup>49</sup> If it is provided at all.

<sup>50</sup> Norman Daniels, *Just Health Care* (Cambridge: Cambridge University Press, 1985), 35.

resources available in society, can be known<sup>51</sup>. When it becomes clear that not everything can be provided for, those under the veil must make decisions regarding when to provide certain services and how much to provide. For example, say society only has an average of 10 units of resources to supply per individual. Those within the veil must then decide when to provide these resources, how they should be allocated per individual, and so on. Daniels believes that agreement would be reached on providing health care for those most in need of it so that they do not fall below the normal opportunity range of the society. In this way, it seems that the problem facing Ripstein of requiring everyone to be independent regardless of the consequences on society is avoided. With Daniels, the provision of health care would not destroy a society by draining it of its resources because those in the veil would understand that they only have a certain amount of resources to work with and the normal species functioning range would be adjusted accordingly.

Under Daniels' rightful condition, I believe a Single-Payer type health care system would be implemented. Such a system would provide similar health care services for everyone. Therefore, no one would be out of the normal species functioning for the specific society. The opportunities available to each person would be fair and equal. Moreover, the health care that would be provided would be based on the resources available and the extent of what is provided would be different for different societies.

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<sup>51</sup> Norman Daniels, "Health-Care Needs and Distributive Justice," *Philosophy & Public Affairs* (p. 167) 10, No. 2 (Spring, 1981), <http://www.jstor.org/stable/view/2264976?&Search=yes&searchUri=%2Faction%2FdoBasicSearch%3Ffilter%3Djid%3A10.2307%2Fj100428%26Query%3Ddaniels%26acc%3Don%26Search.x%3D0%26Search.y%3D0%26wc%3Don> (accessed January-April 2011).



Under this system, freedom would be restricted but equality of opportunity and the needs of individuals to obtain normal species functioning would be ensured.

If those under the Veil of Ignorance did all agree to the principles Daniels lays out, it seems the best health care plan is that of a Single-Payer system. Despite this, I am not so sure that those in the veil would reach an agreement in the allocation of resources. It is unclear if those under the veil actually would be able to reach the agreement Daniels envisions. Even though nobody would know what their placement in society would end up being, there is no guarantee that each will agree to ensure everyone reaches the normal species functioning range. In fact, one such person to disagree would be Nozick. He would be concerned with promoting freedom and would claim that using resources to supply opportunities for those who are less fortunate would infringe on individual's freedoms. Daniels' commitment in securing opportunity would be completely rejected by Nozick and the two would undoubtedly reach different conclusions under the Veil of Ignorance.

Daniels relies on the fact that people would agree within the veil because they all have the same motives and the same knowledge about their lives. Unfortunately, some may value other aspects of life than opportunity, like Nozick with freedom. There even could be those that are willing to play the social lottery in hopes that they win and get all the benefits of wealth and health while accepting the possibility that they could lose and be forced to live in poverty or illness.

### **Amartya Sen**

Amartya Sen combats this difficulty with his theory. Like Daniels, he appeals to opportunity, or rather capabilities, but unlike Daniels, he looks to maximize capabilities rather than ensure equality of capabilities. Sen is willing to sacrifice ensuring capabilities for all to promote overall capabilities while Daniels is unwilling to do so. The notion of equality with Sen's theory is not needed. This eliminates the problem of trying to decide how to allocate resources or reaching an agreement under the Veil of Ignorance. Under Sen's theory, we essentially have to figure out what distribution maximizes capabilities instead of figuring out how to ensure everyone is independent<sup>52</sup> or within a certain range of opportunity<sup>53</sup>. He claims that such a method will result in what is best for society but there is the unfortunate problem that even if it does not result in what is best, he must accept the outcome and bite that bullet.

#### Enhance Capabilities

Amartya Sen arrives at his rightful condition differently than any of the other philosophers. As an economist, he appeals to a Consequentialist type of reasoning. Rather than exclaim that a certain right must be met equally and completely, Sen simply requires the promotion of capabilities. Such capabilities allow people the chance or opportunity to lead the lives they wish to live<sup>54</sup>. Rather than call for these capabilities to be equal throughout society no matter what, Sen thinks that the maximization of capabilities is

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<sup>52</sup> Like Ripstein tries to do.

<sup>53</sup> Like Daniels tried to do.

<sup>54</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 231,

also important<sup>55</sup>. The central authority then has the responsibility to further capabilities in this way.

Amartya Sen has no need for the Veil of Ignorance when determining how to balance services of value in a given society. Whether those under the veil agree that capabilities should be promoted or not is irrelevant. Sen does think that such advancement of capabilities would ensure services provided to those most in need over those who are wealthy because such services would enhance the capabilities of the worse off far more than they would for those who are better off. If you have a choice to give ten dollars to a poor person or a wealthy person, assuming each will use it to further his capabilities, you will give it to the poor person because his capabilities are enhanced much more than those of the rich person. There are diminishing returns in capabilities in terms of services provided. The more capabilities a person has, the less another provided service would enhance that person's capabilities.

#### *Justification for Enhancing Capabilities*

Sen explains how capabilities or opportunities enhance the independence of each person by allowing them to pick various lifestyles and choose the one that each person has reason to value<sup>56</sup>. Specifically, Sen's capabilities concentrate on substantive opportunities<sup>57</sup>. These include political freedoms, economic facilities, social opportunities, transparency guarantees, and protective security<sup>58</sup>. These are not only the

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<sup>55</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 298.

<sup>56</sup> Amartya Sen, *Development as Freedom* (New York: Alfred A. Knopf, 1999), 74.

<sup>57</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 287.

<sup>58</sup> Amartya Sen, *Development as Freedom* (New York: Alfred A. Knopf, 1999), 87.

means for development but also the ends. Poverty is an example of deprivation of basic capabilities in that the poor person's substantive freedom of economic facilities, as well as that of social opportunities, is limited. Being poor is not merely having a low income. Without the money needed to have the substantive freedoms Sen lists, the capabilities of the poor are severely limited<sup>59</sup>.

Freedom ... is, of course, by and large helped by having a higher income (that is not in dispute), but it also depends on many other features, particularly of social organization, including public healthcare, the assurance of medical care, the nature of schooling and education, the extent of social cohesion and harmony, and so on.<sup>60</sup>

Despite the limited freedom of the poor, Sen does not require a basic amount of opportunities for each individual. Like Ripstein and Daniels, Sen acknowledges the claims for equal rights. Unlike them, Sen explains that the overall general advancement of rights also deserves our attention<sup>61</sup>.

Sen finds reasons to be interested not in just the kind of lives we are able to lead but also in the freedom that we actually have to choose between different styles and ways of living<sup>62</sup>. Each person clearly has reason to value freedom and his capabilities and opportunities to exercise such freedoms. To be free is to be able to do. This freedom is different than what we think of as formal freedom. The formally free but poor person technically is *allowed* to purchase food but he does not have the *ability* to do so and is

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<sup>59</sup> Amartya Sen, *Development as Freedom* (New York: Alfred A. Knopf, 1999), 87.

<sup>60</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 226-7.

<sup>61</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 298.

<sup>62</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 227.

therefore not free<sup>63</sup>. With Nozick's Wilt Chamberlain argument, those who decide to pay to watch Wilt play are free to do so. This is in contrast to the poor father who decides to sell his house to buy food for his family. The father is free in the formal sense, but is clearly not really free. This type of reasoning is similar to that of Ripstein but Sen differs from Ripstein in that these freedoms should not be required for everyone no matter what.

Sen continues to connect with other philosophers in his explanation of the difference between a culmination outcome and a comprehensive outcome. The first examines what a person ends up with while the second notes the way the person arrives at the culmination. Sen advocates for promoting comprehensive outcomes when determining if a person's capabilities allow her to pursue the life she values<sup>64</sup>. Evaluations should not be based on what the person ends up doing but on what she is able to do, whether or not she chooses to make use of that opportunity. It is this difference between achievement and capability that is important. What someone does with his or her freedom is not what is at stake. Rather, whether someone has that capability or freedom in the first place is what is important<sup>65</sup>.

Both Ripstein and Daniels, I think, advocate for a comprehensive outcome view as well. Public provisions, such as health care or public roads, are what are culminated in. Neither Ripstein nor Daniels claims that their views are justified as long as these provisions exist. Rather, it is the freedom and the opportunity that is gained with the existence of such provisions that makes them important. It is the way we arrive at the

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<sup>63</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 228.

<sup>64</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 230.

<sup>65</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 234.

requirements for provisions that all the philosophers appeal to. “The concept of capability is thus linked closely with the opportunity aspect of freedom, seen in terms of ‘comprehensive’ opportunities, and not just focusing on what happens at ‘culmination’”<sup>66</sup>. Their difference from Sen though is that Ripstein and Daniels believe what is culminated in will be largely the same despite the differences in particular societies. In contrast, Sen’s theory can result in a completely different culmination depending on the society his rightful condition is implemented in.

### Results of Enhancing Capabilities

Based on Sen’s notion of freedom and its importance, under his rightful condition, health care and education would likely be provided for. Still, they are not guaranteed. If such provisions do not enhance overall capability to pursue aspects of life freely, then such provisions would not be required. Also, like Daniels but to a greater extent, the implementations in society are largely determined by the characteristics of the society itself<sup>67</sup>. Similar to those under Rawls’ Veil of Ignorance who must know the resources in the society to make policy decisions, so does Sen need to know specifics about the society before determining the sort of health care system that should be instituted.

In determining what results from Sen’s rightful condition, we must keep in mind that all five of the basic substantive freedoms must be weighed against each other. One should not be maximized at the cost of losing another. We must figure out how best to use our resources to balance each against the other and promote them all as much as

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<sup>66</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 232.

<sup>67</sup> Amartya Sen, *Development as Freedom* (New York: Alfred A. Knopf, 1999), 265.

possible. “It is important to bear in mind that the capability approach is ultimately concerned with the ability to achieve *combinations* of valued functionings”<sup>68</sup>. If some policy results in a huge increase in political freedoms but greatly decreases social opportunity, while another results in slight increases in both, the second policy should be adopted over the first. Taking this another step, “the use of the capability approach for evaluation does not demand that we sign up to social policies aimed entirely at equating everyone’s capabilities, no matter what the other consequences of such policies might be”<sup>69</sup>. Requiring equality could lead to disastrous consequences based on the lack of resources in society. We must weigh equality as one of the valued functionings and not promote it above all the others.

Ripstein and Daniels both must deal with the potential defects of requiring equality despite possibly bad results. Sen is “neither for equality of welfare nor for equality of capability to achieve welfare”<sup>70</sup>. Both equality and capability or freedom is important but there should be no demand for equality of capability or freedom<sup>71</sup>. Based on this, a policy may be defended not on the grounds that it enhances capability equality, but instead because it expands capabilities overall<sup>72</sup>.

Clearly, the health care system that should be implemented under Sen’s rightful condition largely depends on the characteristics of society. It could be similar to Daniels and ensure equal amount of capabilities and opportunities for everyone. It could be

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<sup>68</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 233.

<sup>69</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 232.

<sup>70</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 265.

<sup>71</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 295.

<sup>72</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 298.

similar to Ripstein and ensure total independence for each person. It could even be similar to Nozick and have a limited role of the state. Whatever maximizes capabilities by balancing Sen's substantive freedoms the best in a given society is the system that should be implemented.

The reason the results of Sen's rightful condition could be like any of the other philosophers' rightful conditions is because Sen does not appeal to a right or principle that *must* be adhered to and protected, which I believe is a problem for Sen. With Nozick, Ripstein, and Daniels, what they determined to be a right must to be promoted and secured above all else. They faced problems because of this that Sen is able to combat but Sen faces a problem because of lacking this type of requirement. If it is shown that a policy expands capabilities, it seems Sen is committed to defending such a policy, even if its implications and results violate rights. For example, such a policy may result in enslaving some members of society. It seems that Sen's theory would not result in enslaving members of society because such enslavement could not promote overall capabilities. What about enslaving one person to greatly increase the capabilities for everyone else? That seems more plausible and it seems that Sen is committed to backing it. Even if it wasn't possible to get to such a situation, Sen's reasoning behind disallowing slavery is not one that seems correct.

The reason behind not allowing slavery for Sen is because it does not promote capabilities in a way in which the substantive freedoms are balanced and enhanced. Such a reason though is not why we ban slavery. We do so because slavery inhibits each individual that is being enslaved. Even if Sen's theory got us to a society that seems just and fair according to Nozick, Ripstein, or Daniels, the reasoning behind such structuring



of society would not be just or fair. It is possible that Sen's rightful condition could be the same as any of the other philosophers but none of the philosophers would accept such a condition because it was created with the wrong justification and with no requirement of rights.

Sen solves the problem that the others face in that rights can generate inefficiencies. Unfortunately, Sen faces the problem that efficiency can generate a violation of rights. Nozick, Ripstein, and Daniels believe that their rights or theories must be upheld and the costs associated are simply the costs that any just society must face. Sen does not want society to have to face these costs but by avoiding these costs, he could be destroying any legitimate reason to protect rights. Based on this, Sen's rightful condition is not necessarily a just society and is clearly not arrived at in a way that the other philosophers would see as just.

### CHAPTER 3: Connection to Compromise

Of course, all of these philosophers face various problems. Interestingly, each seems to have an answer for the problem associated with another. With one philosopher's dilemma, the next philosopher provides a solution. I have shown how Ripstein assists with Nozick's problem of not matching our considered judgments. I have shown how Daniels helps with Ripstein's problem of running society out of resources by ensuring independence for all. I have shown how Sen aids with Daniels' problem of the disagreement bound to occur in the Veil of Ignorance. Lastly, I have shown the tension in Sen between promoting rights and promoting efficiency. This last problem is one that all of the philosophers face. Each must decide if they are willing to make tradeoffs to ensure society remains efficient while understanding it comes at the potential cost of equality or freedom. Before examining this issue, I go over the connections between the philosophers to ensure that despite the problems each philosopher faces, consolidating and reforming their theories is possible, thus allowing me to come up with a health care system each are willing to compromise on.

#### **Connections**

The most obvious connection is between Nozick and Ripstein. Ripstein's essay "Roads to Freedom" specifically works from a view like Nozick's to Ripstein's different conclusion. Both theories make use of freedom and, above all else, require the promotion of such freedom completely. Both agree that if freedom is restrained, the rightful

condition is not met. Although Nozick might not like it, Ripstein presents a way to bring the Libertarian to the conversation when discussing public provision of health care.

The next connection that occurs is that between Ripstein and Daniels. Both philosophers end up with a rightful condition that requires a role for the central authority that includes providing health care. Both seem to lead us to similar results<sup>1</sup> but each justifies such results in different ways. Ripstein's justification rests on the need for individuals to be freely independent. Daniels' justification rests on the need for individuals to have at least a basic level of opportunities that allows them to function in their society normally. Interestingly, supplying such opportunities would likely result in independent freedom. For example, supplying public education to ensure everyone has the same<sup>2</sup> opportunity to learn also allows everyone to not have to rely on someone else for education. Both philosophers also appeal to the idea of equality and the idea that everyone is entitled to specific rights. Daniels requires equal opportunity while Ripstein calls for equal freedoms. In this way, we can go from Nozick to Ripstein and then reach similar conclusions with Daniels.

Another connection is between Daniels and Sen. Both philosophers appeal to the need of capabilities. Although Daniels refers to opportunity rather than capabilities, Sen's capabilities is what is needed to have the opportunities Daniels discusses. The two though do have differences in the application of their theory. Daniels explains the need for capabilities to obtain normal functioning while Sen appeals much more to maximizing capabilities. He is not as committed to everyone obtaining normal or equal functioning.

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<sup>1</sup> Although such similar results are not predetermined or guaranteed.

<sup>2</sup> Or at least similar.

As long as capabilities are promoted, it seems Sen's rightful condition can be met. If Daniels' normal functioning range does indeed enhance opportunities, Sen and Daniels would have very similar rightful conditions.

Finally, there is a connection between Sen and Ripstein. The two both require increasing the capacity of individuals to be independent. Sen looks to promote such a capacity while Ripstein calls for independence to be spread to all. Again, both could reach the same rightful conclusion if Ripstein's freedom for all enhanced Sen's capabilities. Like the connection between Daniels and Ripstein, Sen's capabilities could result in the independence Ripstein requires. I think that because Daniels' opportunities are to be distributed to all, they would be more likely to result in the rightful condition that Ripstein has in mind, but Sen's capabilities could end up leading to a condition in which everyone has the independence Ripstein calls for. The biggest difference between Sen and Ripstein or Daniels is the role of equality.

Despite the different role of equality under Sen's rightful condition, he does see capabilities as an aspect of freedom and in this way further emphasizes the connection between Ripstein and Daniels. Daniels appeals to opportunity while Ripstein appeals to freedom of independence. I see Sen as connecting the two beginning with Daniels:

First, more freedom gives us more *opportunity* to pursue our objectives – those things that we value. It helps, for example, in our ability to decide to live as we would like and to promote the ends that we may want to advance.<sup>3</sup>

And continuing with Ripstein:

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<sup>3</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 228.

Second, we may attach importance to the *process* of choice itself. We may, for example, want to make sure that we are not being forced into some state because of constraints imposed by others.<sup>4</sup>

Based on this, I think that the connections between Ripstein, Daniels, and Sen allow them to be reconciled. Further, by utilizing Ripstein's method of drawing the Libertarian towards a greater role for the state, Nozick can also be included.

Daniels' opportunity, Sen's capabilities, and Ripstein's freedom all potentially could lead to the same outcome of individuals being independent and not being used as the means of others, which is exactly what Nozick calls for. Although Nozick clearly reaches a different conclusion, the right of freedom he expresses can be seen in all of the theories. Sen's outcome could result in a rightful condition like Nozick's but both Daniels' and Ripstein's could not. Further, Sen believes his outcome will be more like that of Daniels' and Ripstein's. Still, there is no doubt that the connections between all of the philosophers, including Nozick, are strong. I do recognize that there are plenty of theories that cannot be reconciled in the way I have tried to do with the above. These philosophers, at the very least, can have a discussion with each other regarding their theories on a rightful condition and at the most, can be reconciled to come to an agreement on one rightful condition. I will attempt to discover how such a compromise can be made and what could result from it.

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<sup>4</sup> Amartya Sen, *Idea of Justice*. (Cambridge: The Belknap Press, 2009), 228.

### Compromise

The biggest roadblock to discovering such a compromise seems to be the conflict between the requirements of rights and the resources available. In a society with enough resources, all of the theories could be more or less satisfied. Freedoms and opportunities could be promoted equally and completely and the system would run efficiently and effectively. Unfortunately, such societies rarely, if ever, exist. With limited resources, we must make decisions about which right or belief that we value should be promoted over another. This can be broad such as Ripstein's freedom versus Daniels' opportunity, or it can be narrow such as providing everyone heart transplants when needed or brain surgery when needed. We value both freedom and opportunity, just as we value heart transplants and brain surgery. Unfortunately, we may not have enough resources to satisfy both.

Moreover, with limited resources, if we decide that *both* heart transplants *and* brain surgery must be provided for, our society could be drained of its resources. As Sen does, we must be willing to make some tradeoffs between whatever right we deem necessary and the wellbeing of the other aspects of society. In this way, Sen's idea of the tradeoff between equity and efficiency is helpful. Still, I do think that a rightful condition should begin with a set of rights or principles that must be adhered to and not just based on something that we all have reason to value.

As mentioned, by focusing the rightful condition on such a right, we could run into problems for society. A just society may come at the cost of a loss in efficiency and Nozick, Ripstein, and Daniels are willing and actually seem to be committed to making such a tradeoff. Sen though is willing to make the tradeoff the other way with efficiency

coming at the cost of a loss of rights<sup>5</sup>. Either way, each must bite a bullet that could prove to be big. Unfortunately, there seems no way to avoid the bullet. That is why I believe a just society can only exist if it has enough resources to be able to provide and protect certain rights without ruining the community as a whole.

The best solution, I believe, is to call for a just society with protection of rights while understanding that such a rightful condition is simply not possible if the resources of the society are too limited. This then leads to the question; does any society have the resources to be a just society? If not, then wealthy nations, like the United States, should create policies based on Sen's reasoning<sup>6</sup> but if so, such wealthy nations should form laws based on one of the rights based theories. I do believe that wealthy nations such as the United States have enough resources to be a just society and form a rightful condition. There is no doubt that tradeoffs must be made, but such tradeoffs are a part of living in a limited world and can coexist with rights<sup>7</sup>.

Essentially, I believe that in a wealthy nation such as the United States, a basic minimum should be available to all. Importantly though, I think that when the state compels someone to give something up, they must get something in return<sup>8</sup>. In this way, all of the philosophers would find aspects of their theories in such a society wealthy enough to be a just society.

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<sup>5</sup> Specifically, equal rights.

<sup>6</sup> Sacrifice basic rights to ensure sustaining of society.

<sup>7</sup> Although, not unlimited rights.

<sup>8</sup> This comes directly from Nozick and the idea of compensating for the violation of rights.

Despite this, none of the philosophers would likely be satisfied with such a society. Although Nozick would be furious that the role of the state is expanded, I believe that it is Sen who would have the most to be upset about. With my short explanation of the need for a rights based society, Nozick, Daniels, and Ripstein agree but Sen disagrees. Sen is the one that gets to his outcome in an extremely different way than the others. Rather than putting a right or need on a pedestal and creating a rightful condition from such an idea, Sen explains what we have reason to value and how best to promote it. Although all the theories would vary in application based on the attributes of the society it is instituted in, Sen's theory could drastically change. Sen's theory could end up similar to Nozick or similar to Daniels or something else altogether but if his theory culminates in the same outcomes, it is not because the same means were employed to get there.

This dilemma is very important for determining what type of health care system should be implemented in a given society. If rights cannot be sacrificed at any cost in a just society, then the health care system will adhere to such rights regardless of the amount of resources needed to create and sustain such a system. If some rights can be sacrificed, then the health care system will still be based on promoting such rights but may not supply them to everyone or supply enough to each person. I believe that a health care system implemented in a just society with enough resources like the United States should be based on rights and not based exclusively on running efficiently. Despite this, because we live in a limited world and resources are limited in any society, there *must* be some tradeoff. Again, I do think that a just society is possible in a limited world but that society must be wealthy enough to be able to sustain itself despite the potential inefficiencies providing and requiring rights results in.



The fact that resources are limited means that a society must be wary of using its resources to ensure it can be sustained. Providing health care may be a part of sustaining a society but it is clearly not the only aspect. Based on this, to have a sustained society, tradeoffs must be made. Still, such tradeoffs do not need to come at the expense of a just society, especially in places such as the United States.

## CHAPTER 4: Health Care in a Just Society

Clearly, each philosopher would advocate for a different type of health care system. The health care systems I suggested each philosopher would implement under his rightful condition are quite different. They would likely range from Nozick and complete control by the individual, to Ripstein and Daniels calling for strong control by the state, and finally to Sen whose system depends more on the society it is implemented in than the right of providing health care. Still, after examining the connections between the philosophers, I do think that one system encompasses aspects of all the theories. Such a system is one resembling Ezekiel Emanuel's Guaranteed Healthcare Access Plan.

### **The Guaranteed Healthcare Access Plan<sup>1</sup>**

Emanuel's system would provide guaranteed health care for everyone by providing a voucher for coverage to each household. The voucher would not be redeemable for cash or able to be used for anything but health care. Further, the voucher entitles the holder to enroll in the health plan of his or her choice. The choice of plan would be among a number of options and each enrollee would be guaranteed acceptance into the plan of their choosing regardless of their health or wealth. The benefits within each plan are to be based on those currently received by members of Congress, which is quite generous. Individuals would also be able to choose to purchase additional health services beyond what would be supplied after using their voucher for a particular plan.

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<sup>1</sup> Ezekiel Emanuel, "A Comprehensive Cure: Universal Health Care Vouchers." *The Hamilton Project* (2007): 7-12.

This system would be funded directly and only by a value-added tax. This tax would be used only for funding the costs of the plan and Congress would have the power to set and adjust it. This would mean that it is up to those who are democratically elected by the individuals of the nation to determine when to decrease the tax along with benefits, or increase it with benefits. This plan would no longer have a need for employer-based insurance so such mandates would be eliminated, likely resulting in wage increases. Further, current government programs like Medicaid and Medicare would be phased out over a period of time, resulting in a decrease of federal taxes.

A National Health Board would regulate the system but this board would not be a part of determining the value-added tax. Rather, it would be in charge of administrative and logistical arrangements that would change overtime. Further, cost and quality would be maintained with a group assessing the effectiveness of health services. There would also be a group ensuring the safety of patients and in charge of resolving disputes in particular cases.

The reason why I decided on this plan is because I believe that the various aspects of it correspond with each of the philosophers I have discussed in this thesis. Assuredly, none of the philosophers<sup>2</sup> would be satisfied with this health care system in that the system as a whole would not satisfy any of their rightful conditions. Still, the system does seem to be a compromise between all of them. Below, I lay out how I believe each philosopher would react to the implementation of such a plan.

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<sup>2</sup> Besides maybe Ripstein.

Nozick

Nozick would be the hardest to bring to the discussion on the public provision of health care. He would want to implement a system that does not restrict freedom in any way. Unfortunately, Emanuel's plan does restrict freedom. Despite this, I think there are aspects of the plan that Nozick would appreciate. To bring Nozick to agree for this sort of health care provision<sup>3</sup>, we must show how his application of his theory is flawed and that the correct application of his theory is more similar to Ripstein. I am not trying to change Nozick's mind in this way. Instead, I am just trying to bring him to a compromise. Emanuel's system does infringe on freedom, but it also allows a significant amount of freedom<sup>4</sup>.

Nozick would be unhappy with the tax associated with this theory but the tax actually does give the power to the individual. It is democratically changed to match the will of the people<sup>5</sup> so in essence, the people freely choose to vote for an increase or decrease in the tax. Another benefit of this theory in the eyes of Nozick is the ability for individuals to purchase more care. Although everyone must use his or her voucher for a minimum level of health care, nobody is locked in to only this level of care. Those who have the additional resources can pay for premium care and services. Furthermore, the system allows the individual to have choice. Emanuel explains that, depending on one's

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<sup>3</sup> Or, for that matter, any health care provision.

<sup>4</sup> Much more than a system like Single-Payer.

<sup>5</sup> Unfortunately, some individuals may not agree with the majority and their rights would be infringed upon.

location, 5-8 insurance companies would be available for one to choose from<sup>6</sup>.

Additionally, something that would appeal to Nozick and Libertarians in general, is the decrease in federal taxes with the phasing out of government programs<sup>7</sup>. Finally, with the elimination of the government mandate, requiring companies to provide health insurance would be gone and wages would increase<sup>8</sup>.

Unfortunately, Nozick would find aspects of this plan that he would not be happy with. The biggest problem for him would be that the less well off would generally receive much more in benefits than they would pay in taxes<sup>9</sup>. This means that the rich are paying for the poor, exactly what Nozick's theory tries to avoid. A final comment on Nozick's theory in regards to Emanuel's system is that Nozick justifies a protective role of the state by explaining the need for the state to compensate for individuals' potential loss of rights. Nozick does not want any individual to be sacrificed for the greater good and it may seem as though this theory does just that. Though it may seem that way, I do not think that is true. Although everyone must pay the value-added tax and in this way has his rights violated, each is compensated by receiving health care and the security that no matter what happens throughout life, health care will remain provided for.

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<sup>6</sup> Ezekiel Emanuel, "A Comprehensive Cure: Universal Health Care Vouchers." *The Hamilton Project* (2007): 7.

<sup>7</sup> Ezekiel Emanuel, "A Comprehensive Cure: Universal Health Care Vouchers." *The Hamilton Project* (2007): 9.

<sup>8</sup> Ezekiel Emanuel, "A Comprehensive Cure: Universal Health Care Vouchers." *The Hamilton Project* (2007): 9.

<sup>9</sup> Ezekiel Emanuel, "A Comprehensive Cure: Universal Health Care Vouchers." *The Hamilton Project* (2007): 19.

### Ripstein

Ripstein, I think, would be the philosopher most satisfied with this type of system although a number of factors would have to be in order for it to exist under his rightful condition. Ripstein's idea of independence would be satisfied because everyone would be given a voucher, which must be used on health care. This would ensure that nobody is reliant on another in terms of health care. As mentioned earlier, Ripstein requires that each person use the voucher to obtain health care. The state must compel everyone to use the voucher to ensure everyone is independent. Even if someone wants to refuse care, the state has a responsibility to ensure he does not so he can remain independent.

Moreover, the supplying of vouchers cannot be from a private organization but rather can be only from the state. Further, Ripstein may call for the insurance companies that accept the voucher and provide health care be public as well. I do not think this is necessary under his theory though. The government is what is being relied upon to produce the vouchers. With the vouchers, everyone can get health care so everyone is only reliant on the government to get health care and no one else. Other aspects that would satisfy Ripstein are similar to those that satisfied Nozick such as the ability to purchase premiums and the freedom to choose from a number of insurance plans.

### Daniels

Daniels would likely find fault with such a system specifically because it does not ensure everyone is in a similar range of species functioning like a Single-Payer system would. Under Emanuel's system, everyone would not be required to have the *same* health care but rather would be required to have *some* health care. Despite Daniels' difficulties

with the plan, the opportunity Daniels advocates for is provided for everyone in the form of vouchers. Insurances would be required to enroll anybody who presents a voucher, regardless of her sickness or wealth<sup>10</sup>. The standard package that Emanuel suggests for this system would be based on what those in Congress currently have, which is good<sup>11</sup>. This would ensure that everyone is not inhibited by poor health and so can remain in a normal functioning range.

Also, Daniels' idea of balancing can be seen in this system. The value-added tax, which determines the amount and type of care, is varied by the democratically elected Congress who would alter it based on the resources of individuals of the nation. More such balancing is seen with Emanuel's various panels. These would play the important role of deciding when and how we should use resources for care and services in specific cases.

### Sen

Sen's take on this system would depend on the society that it is being implemented in. With this system in the United States, Sen's capabilities are promoted because there are enough resources so that everyone is provided with health care. Whether it is the most efficient method of promoting health care in regards to all the freedoms that are included in promoting capabilities is not so clear. Still, the system is not widely inefficient, despite the need to oversee with regulations and government

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<sup>10</sup> Ezekiel Emanuel, "A Comprehensive Cure: Universal Health Care Vouchers." *The Hamilton Project* (2007): 7.

<sup>11</sup> Ezekiel Emanuel, "A Comprehensive Cure: Universal Health Care Vouchers." *The Hamilton Project* (2007): 7.

boards, and does allow for some tradeoff between equality and efficiency. The value-added tax can be varied to ensure the system remains efficient. In addition, efficiency is promoted in eliminating the need for employer based health insurance and phasing out programs like Medicare and Medicaid.



## CHAPTER 5: Conclusion

Emanuel's plan keeps freedom of choice, increases security in keeping one's health care, and gives incentives for higher quality care<sup>1</sup>. Indeed, if such a plan could be established, it seems clearly to be the best, not only in compromising between Nozick, Ripstein, Daniels, and Sen, but also based on American society and values. This plan aims at enhancing and avoiding the conflict between the basic American values of equality of opportunity and freedom to pursue personal goals<sup>2</sup>. Equality of opportunity is the essence of Daniels' theory and freedom is the essence of Nozick and Ripstein's theories. Also, the plan deals very well with a finite amount of resources, which is important under Sen's theory. The main issues in regards to the health care system in the United States are payment for the system and coverage of the system. Emanuel's plan would deal with both and many admit that this system is the best health reform proposal. The worry is simply that it is not politically feasible. Whether this is true is not what I am interested in for this thesis. Instead, I only want a health care plan that Nozick, Ripstein, Daniels, and Sen can compromise on.

The Guaranteed Healthcare Access Plan has aspects of each philosopher's rightful condition. Of course, I am sure each of the philosophers would find problems with this system in how it does not fit with their rightful condition, but I do think this system finds a common ground between all of them while also fitting with our considered judgments.

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<sup>1</sup> Ezekiel Emanuel, "A Comprehensive Cure: Universal Health Care Vouchers." *The Hamilton Project* (2007): 2.

<sup>2</sup> Ezekiel Emanuel, "A Comprehensive Cure: Universal Health Care Vouchers." *The Hamilton Project* (2007): 23.

It is possible that such a system would not meet the full expectations of any one of the theories I have examined but I think it does a good job at meeting the combined expectations of them all.

I do not personally agree with all aspects of Emanuel's system. For example, I do not think everyone should be required to purchase health care with the voucher. Rather, they should be able to choose to simply not use it with the knowledge that it could not be used for anything else. In this way, we give everyone the ability to be free and independent and it is their own responsibility to take the steps of using such ability to become free and independent. Ripstein clearly would disagree with this claim because he requires everyone to be independent and so must force all of us to use our ability to achieve such freedom. Although I do not think this difference would make much of a change in Emanuel's health plan, I think it would have important implications for other aspects of society. In regards specifically to health care though, if each of the four philosophers can compromise on Emanuel's proposed system, I can do so as well.

## BIBLIOGRAPHY

**Books:**

- Bodenheimer, Thomas, and Kevin Grumbach. *Understanding Health Policy*. New York: McGraw-Hill Companies, 2009.
- Daniels, Norman. *Just Health Care*. Cambridge: Cambridge University Press, 1985.
- Daniels, Norman. *Justice and Justification*. Cambridge: Cambridge University Press, 1996.
- Emanuel, Ezekiel. *Healthcare, Guaranteed*. New York: PublicAffairs Books, 2008.
- Friedman, Milton. *Free to Choose*. New York: Harcourt Brace Jovanovich, 1980.
- Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974.
- Rawls, John. *A Theory of Justice*. Cambridge: The Belknap Press, 1971.
- Ripstein, Arthur. *Force and Freedom*. Cambridge: Harvard University Press, 2009.
- Ripstein, Arthur. *Roads to Freedom*. University of Toronto: Not Published.
- Sen, Amartya. *Development as Freedom*. New York: Alfred A. Knopf, 1999.
- Sen, Amartya. *Idea of Justice*. Cambridge: The Belknap Press, 2009.

**Articles:**

- Buchanan, Allen. "The Right to a Decent Minimum of Health Care." *Philosophy & Public Affairs* (pp. 55-78) 13, No. 1 (Winter, 1984), <http://www.jstor.org/stable/2265199?origin=JSTOR-on-page> (accessed January-April 2011).
- Daniels, Norman. "Fair Equality of Opportunity and Decent Minimums: A Reply to Buchanan." *Philosophy & Public Affairs* (pp. 106-110) 14, No. 1 (Winter, 1985), <http://www.jstor.org/stable/view/2265240> (accessed January-April 2011).
- Daniels, Norman. "Health-Care Needs and Distributive Justice." *Philosophy & Public Affairs* (pp. 146-179) 10, No. 2 (Spring, 1981), <http://www.jstor.org/stable/view/2264976?&Search=yes&searchUri=%2Faction%2FdoBasicSearch%3Ffilter%3Djid%3A10.2307%2Fj100428%26Query%3Daniels%26acc%3Don%26Search.x%3D0%26Search.y%3D0%26wc%3Don> (accessed January-April 2011).
- Emanuel, Ezekiel, and Victor Fuchs. "A Comprehensive Cure: Universal Health Care Vouchers." *The Hamilton Project* (2007).