A MORAL OBLIGATION FOR UNIVERSAL HEALTHCARE IN THE UNITED STATES

By

Paige Magee

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SUPERVISORY COMMITTEE:

_____
Clevis Headley, Ph D.
Thesis Advisor

_____
Marina Banchetti, Ph D.
Thesis Committee

_____
Adam Bradford, Ph D.
Chair, Philosophy Department

_____
Michael J. Horswell, Ph D.
Dean, Dorothy F. Schmidt College of
Arts and Letters

_____
Date

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ABSTRACT

Author:	Paige Magee
Title:	A Moral Obligation for Universal Healthcare in the United States
Institution:	Florida Atlantic University
Thesis Advisor:	Dr. Clevis Headley, Ph.D.
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Two major claims are defended in the following thesis: 1.) that the United States has a moral obligation to provide and enforce a universal minimum of healthcare for its citizens; and 2.) that the citizenry of the United States equally has a civic duty to support such a policy. The current healthcare system is harming millions of people in such numerous and severe ways that it is an urgent moral issue—an evil, rather than an abstract issue of defending individual rights. By clinging to morally problematic conceptions of rights that historically supported the supremacy of the individual over the community, the United States government and its citizenry continue to callously perpetuate egregious harms for which they are culpable. In light of this, I first critique traditional Western philosophical approaches to individual rights by stressing their counterproductivity, especially when making a case for universal healthcare.

Throughout, I follow Victoria Davion in *Health Care in the United States: Evil Intentions and Collective Responsibility*, where she attaches Claudia Card's conception of evil to the issue of healthcare, including moral standards of culpability, while advocating collective moral action with regards to healthcare. Taking this communitarian approach, I finally defend against the argument that communitarianism will undermine individual rights by treating citizens as a means to an end for universalized healthcare.

DEDICATION

This manuscript is dedicated to my family, particularly to my selfless, encouraging mother, and the inspiration I received from my brother Miles, the best role model a sister could ask to have. I also dedicate this work to my partner Damon; thank you for tolerating my research. And finally, this thesis goes out to everyone living in the USA who is struggling to pay for healthcare with so much already on their plates.

A MORAL OBLIGATION FOR UNIVERSAL HEALTHCARE IN THE UNITED STATES

INTRODUCTION

The issue of healthcare affects people on several different levels: individually and socially, economically and politically, and on the local, state, and national levels. The concept of universal healthcare is also defended or argued against from the perspectives of different theories associated with those relationships: theories of justice, theories of rights, religious traditions, and moral theories. If health was considered a human right, then the Congress of the US could enforce a plan by creating a constitutional human right to healthcare, following in the footsteps of the United Nations 1948 Universal Declaration of Human Rights.[1] Or, instead of appealing to rights, by merely implementing obligatory public policy by mandating health care as President Obama did in 2010.

Despite the Affordable Care Act, however, the state of healthcare in the United States remains a national crisis, one in which the United States' competing values of freedom, equality, justice, and autonomy are distorting healthcare policy and inhibiting collective action. When American values are the primary talking point, either taken individually or together as a radical ideal, they perpetuate falsehoods. These falsehoods concern who is responsible for healthcare in general, who is responsible for correcting the national healthcare crisis, and naturally, who matters in the United States?

[1] "Universal Declaration of Human Rights: Article 25," United Nations, https://www.un.org/en/universal-declaration-human-rights/index.html.

While focusing on radical ideals and principles, instead of the immoral results of failing to implement a universal minimum of healthcare, many supporters of universal healthcare utilize arguments based on individualistic rights and ethical precepts that obscure the moral significance of inaction.

THE NATIONAL HEALTHCARE CRISIS

I refer to the United States' failure to provide healthcare to its citizens as a crisis precisely because it continues to be an ongoing problem that is irreparably harming an appalling number of citizens. Millions of people in the United States cannot afford health insurance either by purchasing private insurance on their own or acquiring it through their place of employment. Even if one has purchased insurance, many cannot afford to pay the high copays, coinsurance, and deductibles associated with visits to doctors and medical procedures. People are skipping preventative and necessary healthcare, rationing prescriptions and, consequently, impairing their health. Those who have government-funded health insurance, such as Medicare or Medicaid, cannot afford to go to the dentist, eye doctor, or pay for their necessary prescriptions, and home care.

Prior to the health insurance mandate of the Affordable Care Act and Market Place implemented by President Obama, "nearly a third of the under-65 population-almost 90 million people had no health insurance for at least part of 2006 or 2007." [2] Additionally, "In 2010, almost 49 million people under the age of 65 were uninsured, and almost 8

[2] Lewis Vaughn. "Dividing Up Health Care Resources." In *Bioethics, Principles, Issues, and Cases*, Third Addition, (New York, NY: Oxford University Press, 2017).

million of those were children." [3] From 2010-2014, due to Obama Care, "the number of uninsured among people under 65 dropped to 32 million." [4] However, 32 million uninsured is a substantial number, and this fact indicates that despite the government subsidies meant to help citizens pay for their insurance, those who remained uninsured could not afford it.

More recently, according to a study from The National Center of Health Statistics, in 2018, 30.4 million persons of all ages (9.4%) were uninsured at the time of the interview." [5] While the Affordable Care Act has helped to increase coverage across the nation, prices have skyrocketed, and affordable plans with decent coverage have been phased out disproportionately affecting the sick and needy. Many people do not work full time and are not offered coverage, or they cannot afford the premiums offered to them despite working full time or being members of families who do work full time. High deductible, catastrophic, and indemnity plans are now the norm. In 2018 "the percentage of persons under age 65 with private health insurance enrolled in a high-deductible health plan increased from 43.7% in 2017 to 45.8% in 2018." [6] In high deductible plans, deductibles are rarely met, forcing high out of pocket payments for care, leaving people broke, sick, and disillusioned with their coverage.

The United States is the only industrialized and affluent nation in the world that does not offer health insurance to all of its citizens, even with a GDP of 19.39 trillion in

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[3] Ibid.,720.
[4] Ibid.,720.
[5] Cohen, Robin. "Health Insurance Coverage: Early Release of Estimates From the National Health Interview Survey, 2018," National Center for Health Statistics, U.S. Department of Health and Human Services, Released May 2019, https://www.cdc.gov/nchs/data/nhis/earlyrelease/insur201905.pdf, 1-13.
[6] Ibid.,1.

2017. [7] Despite this fact, the United States also spends more than other wealthy countries combined on healthcare. "According to 2007 data, the country's per capita spending on health care was $6,102-more than twice as much as the average amount spent by the richest nations in the world," some of which include France, Germany, Switzerland, Denmark, Canada, the United Kingdom, Norway, and Japan. [8] At the same time, life expectancy in the United States is 77.8 years, lower than that of other economically advanced countries that fall in at around 78.6 years.[9] The United States' infant mortality rate is also higher than in other developed countries. The U.S has 6.8 infant deaths per 100 as opposed to 5.4 per 100 in other countries. [10] And the United States has "higher death rates from medical errors and fewer physicians per capita, and Americans have more trouble getting treated on nights and weekends and obtaining same-day appointments with doctors." [11]

Disparities within the healthcare system are vast and lead to more significant differences in health among minority groups. According to Vaughn, "Research has established that many minorities have much poorer health and higher mortality than the rest of the population." [12] Heart disease death rates are more than 40% higher for African Americans than whites, cancer death rates are 30% higher, and death from HIV for African Americans is more than seven times higher than for whites.[13] Hispanics are almost twice as likely to die from diabetes as are non-Hispanics, and most minority groups suffer from

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[7] Victoria Davion, "Health Care in the United States: Evil Intentions and Collective Responsibility," *Midwest Studies in Philosophy*, no. 1 (Jan. 2006): 325, http://search.ebscohost.com.ezproxy.fau.edu/login.aspx?direct=true&AuthType=ip,cookie,url,uid&db=edsgao&AN=edsgcl.158746138&site=eds-live&scope=site.
[8] Vaughn. "Dividing Up Health Care Resources," 720.
[9] Ibid.
[10] Ibid.
[11] Ibid.
[12] Ibid., 721.
[13] Ibid.

lower birth weights and also significantly higher infant mortality than whites.[14] These differences in health status are not biological or genetic and, therefore, cannot account for the vast disparities in health between minority and majority groups.[15] However, I argue that the lack of healthcare significantly contributes to these health disparities. In 2017, "non-Hispanic whites had the lowest uninsured rate" and enjoyed better health outcomes.[16] Overall there are millions of people in the United States struggling to obtain and maintain adequate healthcare and health insurance while insurance companies, hospitals, and pharmaceutical companies acquire profits and deliberately work to deny coverage to those with preexisting conditions.

In the United States, we are taught that we live in a country that values equality and justice for all. If that is indeed the case, then we must investigate why there are such huge disparities among race, income, and health. Why is it the case that in America when people become seriously sick, can no longer work, or unable to continue paying for their health insurance, they are forced to choose between leukemia treatments, for example, or paying their mortgage? Why is it the case that caregivers, (usually women) are forced to leave their jobs in order to care for a sick family member, a decision which in turn causes them to lose their own health insurance and the means to provide for themselves and their loved ones? All the while, bill collectors are calling on behalf of the for-profit hospitals and insurance companies to collect a payment, thereby contributing to the stress of an already disastrous event. In a country as wealthy as the United States, mothers shouldn't have to

[14] Ibid., 720.
[15] Ibid., 721.
[16] Edward D. Berchick, "Health Insurance Coverage in the United States: 2017," September 12, 2018, United States Census Bureau Report P60-264, https://www.census.gov/library/publications/2018/demo/p60-264.html

choose between formula, birth control pills, or worry about the hospital bill incurred from giving birth. Students shouldn't have to choose between mental health services and college books. Grandmothers shouldn't have to choose between cancer treatments for their partner or the mortgage payment. The U.S.'s healthcare system is predatory; it facilitates immoral business practices most obvious and evident by the practices of big pharma's role in creating the opioid epidemic.[17]

HOW I WILL ARGUE FOR A UNIVERSAL MINIMUM OF HEALTHCARE

In this thesis, I will conceive of healthcare as primarily a moral issue because the current healthcare system harms millions of people in various ways every day. I will argue that the United States has a moral obligation to provide and enforce a universal, minimum of healthcare to its citizenry and that the citizenry of the United States equally has a duty to support such a policy. This support needs not the appeal to individual rights. Instead, I shall consider healthcare a community good. Following Victoria Davion, I will argue that the United States' failure to provide healthcare to its citizens is an immoral evil rather than an abstract issue of justice. My position is that it is morally wrong for the United States not to provide healthcare to its citizens when it has the resources to do so.[18] Following Davion, I will assume that the United States has the resources to offer such a benefit, although it is the only industrialized nation in the world which fails to do so.[19]

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[17] Brian Mann, "Not Just Perdue: Big Drug Companies Consider Settlements To Resolve Opioid Suits," *NPR*, August 28, 2019, https://www.npr.org/2019/08/28/755007841/several-big-drug-companies-considering-massive-settlements-to-resolve-opioid-sui.

[18] Davion, "Healthcare Care in the United States: Evil Intention and Collective Responsibility," 325.

[19] Ibid., 325.

Healthcare in the United States is a moral issue that pertains to the harms associated with a faulty conception of individual rights and freedoms that is ultimately leading to egregious wrongs being committed. I choose to make a moral argument that focuses on collective human obligation and harm prevention rather than an individual rights argument. Rights, as they are usually conceived of in America, are rooted in and associated with traditional Western moral theory and political philosophy. Philosophical liberalism perpetuates the unhealthy notion of autonomy and self-interest at the expense and exclusion of others communal based notions. Individual rights, as they are understood in the United States, signify an individualistic idea of freedom from obligation or the freedom to do what is good primarily for the individual. Instead, I argue, the possibility and authority of the rights of individuals derive from a community rather than by asserting the primacy of individual rights over the community.

The structure of this thesis is as follows: In Chapter One, I will argue against the primacy of individual rights and the individualistic approach by exploring feminist critiques of traditional ethical and political theory. I pursue this task in order to show that traditional ethical precepts and conceptions of rights are not useful when attempting to understand the challenging issues universal healthcare poses. I will explore common American myths grounded in the conviction that individualistic rights should inordinately influence public policy. These myths include, among other things, autonomy and freedom. And finally, in concluding Chapter One, I will present a feminist take on *homo economicus* and the problem associated with philosophers treating healthcare as being similar to any other product purchased by a consumer. In Chapter Two, I will argue for a universal minimum of healthcare using Victoria Davion's collectivist perspective. There I will argue

that it is an immoral evil to deny citizens of the United States healthcare. This approach focuses on the large-scale social evil that results from lacking healthcare. And finally, in Chapter Three, I will defend the collectivist good against charges of individualistic evil, by critically responding to the prevailing argument against universal healthcare. Again, I argue that healthcare should be considered a collective good instead of a private commodity.

CHAPTER ONE

WESTERN INDIVIDUALISM

ATOMISTIC PRIMACY OF RIGHTS

Traditional Western political and moral theory prioritized the rational self-interested individual over the community. Social Contract theory, for example, features self-interested people contracting with each other, exiting the state of nature by forming a community and purely from the perspective of individual self-interest. Social Contract theories such as those of Hobbes and Locke handed down an atomistic "primacy of rights," which greatly influenced the founding fathers of the United States. The influence of this thinking is still felt in the United States. For example, contemporary American philosopher, Robert Nozick, argues for atomistic civic associations. Doctrines of social-contract theory view society as constituted by isolated individuals for the fulfillment of ends which are primarily individual.[20] These atomistic theories prioritize the individual and his/her rights over society.[21]

[20] Charles Taylor, "Atomism," in *Social and Political Philosophy, Classical Western Texts in Feminist and Multicultural Perspectives,* ed. James P. Sterba (Belmont: Wadsworth Publishing Company, 1995), 489.
[21] Ibid.

According to social contract theory, people obtain their natural rights because they are born with specific innate capacities or essential properties – their rationality, autonomy, and dignity. [22] According to Charles Taylor, "the starting-point in individual rights has an undeniable prima facie force," i.e., those rights were there from the very beginning. [23] The problem with thinking of rights in this way is that rights are then not considered as deriving from the communities in which we live and are born into.

Primacy of individual rights doctrines takes a purely instrumental view of society. While social contract theory explains society as formed through a self-interested binding agreement between the state and its citizens, atomists, however, do not recognize any unconditionally binding agreement that includes an obligation to a community. [24] Individual rights are primary and "the obligation to belong is derived in certain conditions from the more fundamental principle which ascribes rights" namely consent for an individual advantage. [25] The community is primarily formed out of self-interested individuals. Commitments between individuals are derivative and exist only to the extent that we consent to them – to the extent that they are personally advantageous. [26] Individualists see obligations even to the state as being derivative from more important principles (the properties of persons or their interests) that create the rights for individuals in the first place, which makes protecting those rights more important than any perceived obligation to anyone else. If an obligation is going to be fulfilled, it will be to the advantage of the individual or with his/her permission and/or as an act of goodwill. Under this view,

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[22] James Sherman, "A New Instrumental Theory of Rights," *Ethical Theory and Moral Practice* 13, no. 2 (2010): 216.
[23] Taylor, "Atomism," 490.
[24] Ibid.
[25] Ibid., 290.
[26] Ibid.

freedom of choice is a fundamental human capacity, making it one of the properties of persons that creates a right. [27] Asserting that one has a right involves realizing individual potentialities.[28] Taylor outlines, "A has a natural right to X, if doing or enjoying X is essentially part of manifesting E (e.g. if E is being a rational life form, then A's having a natural right to life and also the unimpeded development of rationality)." [29] Non-interference by the state is therefore required for individuals to realize their potentialities or right to life. Interfering with one's freedom through an obligation to another that is not beneficial to the individual and not agreed upon is, therefore , unjustifiably impinging on the realization of their rights.

ATOMISM AND THE HEALTHCARE DEBATE

The atomistic argument for the primacy of rights and freedom is one of the central arguments used to oppose universalized healthcare. According to libertarians , an individual has a right to do with his/her property (money) what is in the best interest of the individual. This libertarian view also entails that an individual has the right to make decisions regarding purchasing or not purchasing insurance. Indeed, they insist that autonomy and freedom are essential characteristics of individuals and that these essential characteristics give them rights. Following this line of reasoning, actions performed in accordance with rights cannot be argued against because they are protected by these rights. According to Taylor, "To say that we have a right to be free to choose our life-form must

[27] Ibid., 492.
[28] Ibid.
[29] Ibid.

be to say that any choice is equally compatible with this principle of freedom and that no choice can be judged morally better or worse by this principle."[30] Hence, if an atomist chooses not to donate to a healthcare plan, he/she may be considered uncharitable but that is as far as the criticism can go. It would not be acceptable to challenge his/her right to do as he/she pleases with his/her money. Accordingly, any critique made against the right of an individual to make free choices regarding his/her property would not be consistent with the usual principles of individual rights. Therefore, any such protest, grounded in alternative principles, would not directly challenge the view that we have the right to do what we want with what we own. [31] As Taylor further explains while fleshing out the atomistic view of things, "If I have a right to do what I want with my property, then any disposition I choose is equally justified from the point of view of this principle." [32] Nevertheless, Taylor maintains that the appeal to natural rights, instead of being a secure basis for the defense of individual rights, is a major weakness of the atomist position.

REBUTTAL TO ATOMISM

Charles Taylor attempts to refute atomism by questioning the primacy of rights primarily on two grounds. First, he argues that atomists "cannot ascribe natural rights without affirming the worth of human capacities, and if this affirmation has other normative consequences (i.e. I should foster and nurture these capacities in ourselves and others), then any proof that these capacities can only develop in a society or in a society of a certain kind

[30] Ibid., 492.
[31] Ibid.
[32] Ibid.

is proof that we ought to belong to or sustain this kind of society." [33] Taylor is arguing that humans are not born self-sufficient but instead became self-supporting as a result of a society that should be preserved. In other words, that self-sufficiency and other essential capabilities are not possible outside of a community, thus the community should be taken into moral consideration when applying rights. For instance, we can prove that essential human capacities are not possibly nurtured outside of the community by using atomists claims.[34] By requiring another person to not interfere with their actions or to interact only in certain beneficial contractual relations atomists are imposing an injunction on the other person to help them nurture their fundamental characteristics, thus self-sufficiency is not viable outside a community, thus society should be preserved. [35] The assertion of an atomistic primacy of rights on this understanding would be undermining the community in which they arose.

Second, Taylor argues that individualistic rights make moral claims on people and thus this tacitly implies a moral obligation to society, which also contradicts primacy of rights theory. Taylor argues "the assertion of a natural right, while it lays on us injunction to respect A in his doing or enjoying of X, cannot but have other moral consequences as well. For if A is such that this injunction is inescapable and he is such in virtue of E (rational life form), then E is of great moral worth and ought to be fostered and developed in a host of appropriate ways, not just not interfered with."[36] Rights are more than an injection but represent the moral worth or intrinsic value we place on humans that should be nurtured in

[33] Ibid., 492.
[34] Ibid.
[35] Ibid., 491.
[36] Ibid.,491.

society. Fostering these capacities requires more than non-interference but social cooperation through institutions. If atomists are arguing that their properties "ought" to be developed through rights, and then deny other people the possibility to develop their properties because they are in need of assistance, they are being contradictory. By creating a situation in which others are denied the opportunity to develop their natural properties, atomists are also denying individuals an opportunity to develop their human capacities which is contrary to primacy of rights principles. Similarly, by destroying society through self-interest, they would be undermining their own future ability to realize their capacities.[37]

It is contradictory for atomists to oppress citizens through non-interference when the non-interference is hurting people. [38] For example, is the state protecting someone's right to life if it lets them die without cancer treatment because they lack health insurance?[39] By accepting their rights, atomists must accept the ethical consequences that follow as a result of exercising such rights in such a self-interested way. Taylor argues, "the free individual in the West is only what he is by virtue of the whole society and civilization which brought him to be and which nourishes him." [40] It is our families and society who make us who we are. Consequently, the state, families, and individuals should have a genuinely reciprocal moral obligation to each other.

Taylor argues that atomism could be refuted as a contradictory theory if a person could prove that essential human capacities come from society and that we are not born

[37] Ibid., 493.
[38] Ibid., 493.
[39] Ibid.
[40] Ibid., 498.

with rights or freedom. To demonstrate this would imply that there is an obligation to preserve community and directly contradict the rights doctrine. Also, if one could show that the act of affirming capacities through rights makes moral claims on others by means other than non-interference alone, this would show why the primacy of rights doctrine is so blatantly contradictory. Fortunately, contemporary philosophers frequently challenge the idea of individual autonomy and freedom as prior to the community. They also investigate what consequences these idealized notions have in the United States, including how normative claims about who matters in society are made through the economy and how this affects universal healthcare in the United States.

Martha Albertson Fineman, in *The Autonomy Myth, a Theory of Dependency* and *Feminism Confronts Homo Economicus*, makes the two compelling arguments Taylor references to refute atomism. She considers so-called essential human characteristics such autonomy, independence, and self-sufficiency as destructive American myths. She argues that theses myths, (although enumerated in the Bill of Rights), are normative values that also infiltrate the economy. Fineman argues that rights are not positive universal laws, nor are they scientific, mathematical laws of economics, but are in fact normative fictions and, therefore, should be critically reassessed to include communities. Fineman writes extensively about how these myths work through social policy to maintain the current status quo. For example, autonomy is often used to marginalize those who are labeled as dependent. She argues that because we were all born dependent as infants into families and someday, especially when elderly, we will become dependent again, we have an 'inevitable

dependency.[41] This dependency comes in many forms: biological, economic, psychological, emotional, and derivative in nature, derivative meaning becoming dependent as a result of caring for another dependent.[42] Because of this inevitable dependency, American ideals of self-sufficiency are largely myths. Instead of furthering these myths, Fineman calls for collective social concern. She claims that, "just as individual dependency needs must be met if an individual is to survive, collective dependency needs must be met if a society is to survive and perpetuate itself."[43] This is not a question of goodwill, of giving to the needy. Rather, the argument is that we all are (or eventually will be) in need, and that mutual dependency needs of all must be met to achieve mutual flourishing.

When most Americans invoke individualistic rights, they perpetuate the stigmatization and punishment of those who are deemed "dependent."[44] The dependents of society are cast out and criticized for their dependency. Since American values are considered an "ideal," unhealthy notions of responsibility and independence are privileged. For example, caregivers should not be scorned for not being able to maximize their wealth because the need for care is just as essential as wealth. Tending to the needs of others who are not able to help themselves by providing care creates a need for assistance from the state; but this need is often demonized. Dependency is seen as a choice, a failure to work, a moral failing. According to Fineman, "pejorative notions of dependency and subsidy are joined, and condemnation or pity is considered an appropriate response for those unable to

[41] Martha Albertson Fineman, "Cracking the Foundational Myths, Independence, Autonomy, and Self-Sufficiency," *Feminism Confronts Homo Economicus, Gender, Law, and Society* (Ithaca: Cornell University Press, 2005), 182.
[42] Ibid., 184.
[43] Ibid., 183.
[44] Ibid., 7.

live up to the ideals."[45] However, individual, breadwinning, rational agents are not considered dependents, even though they do rely on many elements of society for their good fortune.

Individualistic notions of efficiency and non-interference are also ingrained in the American economic system and partially dictate how the economy functions. Government interventions, seen as limitations on individual freedoms, are perceived as hindering the efficiency of outcomes in the marketplace. The general claim is that in a free market willing buyers and sellers would be able to set the value of products through the natural mechanisms of supply and demand.[46] Actors in the market are classified as *homo economicus,* as completely rational actors who enter into transactions solely to maximize economic well-being.[47] Law and economic theory, including the concept of *homo economicus*, are commonly presented as being above the fray of political and moral debates.[48] However, properly understood, this approach leverages law and economics (under the guise of objective science) for political ends.[49] These political ends include assumptions about how the value of goods and services should be determined.[50] And these

[45] Fineman, "Cracking the Foundation Myths, Independence, Autonomy, and Self Sufficiency," 182.
[46] Terence Dougherty, "Economic Rhetoric, Economic Individualism, and the Law and Economics School," *Feminism Confronts Homo Economicus, Gender, Law, & Society,* ed. Martha Albertson Fineman and Terence Dougherty (Ithaca: Cornell University Press, 2005), 3.
[47] Martha Albertson Fineman, "Introduction," *Feminism Confronts Homo Economicus, Gender, Law, and Society* (Ithaca: Cornell University Press, 2005), ix – xvii.
[48] Dougherty, "Economic Rhetoric, Economic Individualism, and the Law and Economics School," 4.
[49] Ibid., 5.
[50] Ibid.

assumptions are based on the same fundamental myths of how an ideal person, "*homo economicus,*" ought to perform in society.[51]

The free market is not the proper mechanism to distribute healthcare because people are in need of health and if they cannot afford it, they could die. People are not exclusively *homo economicus*, and healthcare is not a choice but, rather, a need that affects people on many levels. We treat healthcare as if it is like any other good but, realistically speaking, health has no equivalent and cannot be reduced to a market value – it has a deeper importance which is bound up with the concept of human dignity.[52] Healthcare, for example, is not purchased for pleasure, and to live without it can be fatal. Free Market economics which treats healthcare as a commodity has morally troubling implications. One major problem is the assumption that "everything" can be bought and sold in the free market. Taken to its logical conclusion, free market economics would, in theory, support the right to purchase organs on the black market from the poor.

HEALTHCARE AS A NEED, NOT A COMMODITY

It is my contention that healthcare should be considered a "need," rather than a "commodity" to be traded freely on the market. My argument for this position is that when healthcare is treated as a commodity – especially with a focus on profitability, it harms people. Those with money can buy 'health,' and those who cannot suffer. When left to

[51] Dougherty, "Economic Rhetoric, Economic Individualism, and the Law and Economics School," 4.
[52] Joseph Crisp, "Right or Duty: A Kantian Argument for Universal Healthcare," *Online Journal of Health Ethics* 13, no. 1 (January 2017): 4.

privatized market adjustments or minimal government interference, prices rise, and substandard care becomes the eroding norm.

Another signal that healthcare does not belong in the free market is that it frequently does not operate in a predictable manner. Healthcare does not function in a predictable manner because there are several distinct variables tied to healthcare, resulting in price volatility. For example, healthcare is dependent on many volatile markets forces that influence the price of healthcare, such as education (of doctors, nurses, and other healthcare workers), labor costs and, pharmaceutical companies.[53] Healthcare, unlike most goods, is also not marketable and cannot be exchanged like any other product; it is a special good. For example, a person cannot test healthcare before making a purchase or return it like an item from Target. Healthcare is also unique because, demand and supply outcomes are not predictable: the quality of care is often unknown, and there is an information gap between the doctors and patients.[54] Patients often do not fully understand what they are choosing. Furthermore, some patients are not fully rational and cannot make choices about their own welfare.[55] Given the non-marketability of health, market forces cannot effectively determine prices and supplies. Consequently, the ability of the market to determine the allocation of healthcare is greatly reduced."[56] For example, ordinarily when the price drops, demand should increase; conversely, with a fixed supply and high demand, price should rise until enough people get priced out of the market, balancing out a new equilibrium price. [57] However, health care markets refuse to follow these laws because you cannot price

[53] Ari Mwachofi and Assaf F Al-Assaf. "Health care market deviations from the ideal market." *Sultan Qaboos University medical journal* vol. 11,3 (2011): 328-237.
[54] Ibid.
[55] Ibid.
[56] Ibid.
[57] Ibid.

someone out of needing urgent medical treatment to save his/her life.[58] People will always need medical services regardless of the price. Hence, the market cannot correct these structural limitations by itself without government intervention.[59]

Another reason healthcare should be considered a need and not a commodity relates to the power imbalance between doctors and patients. Doctors understand that people must pay for healthcare regardless of the price; doctors also know more about illness and health procedures than the patient, which together creates an unequal power relationship between the two. Additionally, doctors and hospitals set and allocate care on the basis of the profit motive.[60] Because of this, there is often the ironic situation of doctors providing more services than medically necessary (or less, depending on the circumstances), or they may pressure patients to try new unnecessary procedures and unsafe prescriptions. Due to the power imbalance between doctor and patient, patients are in a weak position to protect themselves from this practice.

My final argument against healthcare as a commodity relates to cost. More sick people are purchasing healthcare than healthy people. Apparently, this phenomenon leads to the raising the costs of insurance and deductibles.[61] Furthermore, this development inflates costs and prices all around which neither consumers nor insurance companies are equipped to shoulder.[62] When healthcare is forced into a privatized market, which it is not amendable to, it causes harm. Again, broken health is not like a broken toy that can be

[58] Ibid.
[59] Ibid.
[60] Mwachofi, "Health care market deviations from the ideal market." *Sultan Qaboos University medical journal* vol. 11,3 (2011): 328-237.
[61] Ibid.
[62] Ibid.

replaced with another toy; it kills people, and these harms are not resolvable under a free market economic system that is primarily concerned with profit.

CONCLUDING REMARKS

In this chapter, I have critiqued the traditional Western atomistic primacy of rights. The atomistic approach, I have argued, has been deeply influential in the United States. The atomist approach is also incorporated into the US economic theory and healthcare policy, but with detrimental effects. Contrary to what atomists believe, I have argued rights and freedoms are nurtured through community rather than being prior to the community, and that by exercising rights, citizens are making moral claims on the community, both of which entail a moral obligation to the community's common welfare. Because the primacy of individual rights doctrine is suspect and harmful to society, it should not be used to make arguments for or against universal healthcare. And because such faulty value-laden notions extend to the economy, healthcare should not be left to the whims of the free market. Healthcare is not a commodity that should be sold for profit. Rather, it is a need that everyone should have fulfilled in the United States due to our ability to provide it and our obligation to one another. In light of this analysis, Victoria Davion makes a new type of argument for healthcare. She argues for universal healthcare by exposing the immorality of the principle of non-interference as espoused by atomists. Davion, however, advocates a new model, one where the community's needs are met and protected from the evils of the profit motive and unregulated individualistic desires.

CHAPTER TWO

AMERICA'S FAILURE TO PROVIDE HEALTHCARE IS AN IMMORAL EVIL

Victoria Davion, in *Health Care in the United States: Evil Intentions and Collective Responsibility*, introduces a new argument concerning healthcare in the United States. Instead of focusing on individual rights, Davion rightly claims, using Claudia Card's theory of evil in *The Atrocity Paradigm,* that it is an immoral evil (defined below) for America to fail to provide health insurance to its people. Additionally, she maintains that the government is morally culpable for these evils. Along these lines, she argues that "the kinds of moral wrongs involved in America's failure to provide health care, including sexist, racist, and classist dimensions of these wrongs, are better understood through the lens of evil than that of injustice."[63] Inequalities occurring in the healthcare system do not by themselves make America's failure to provide healthcare immoral as such. Similarly, even a dogmatic "focus on equality […] fails to tell one whether a particular inequality is unjust or not."[64] For example, does the fact that the death penalty is unequally distributed make the death penalty in itself an unjust punishment?

[63] Davion, "Health Care in the United States: Evil Intentions and Collective Responsibility," 325.
[64] Ibid., 327.

Ernest Van Den Haag argues that, the "maldistribution of any punishment among those who deserve it is irrelevant to its justice or morality."[65] If capital punishment is immoral, then no distribution could make it moral.[66] Davion argues, "not all unjust inequalities are evil, they do not all cause intolerable harm."[67] For example, some inequalities lead to inconvenience rather than injury.[68] With regard to healthcare, Davion argues that the entire system is an immoral evil precisely because it causes intolerable structural harm.

By claiming that an act is an immoral evil, Davion and Card argue that the concept of evil associated with large scale social wrongs "offers a more powerful and basic critique of such wrongs than to simply say that they are unjust."[69] Saying something is unjust does not capture the essence of harm when it is, in fact, evil. Davion argues that "the focus on equality and nondiscrimination encourages political activists to prioritize less important issues while ignoring the worst wrongs."[70] If policy makers focus on solving one particular disparity in the healthcare system, that issue may not be as egregious as the harms created by the whole system. For example, bills are proposed, and some signed into law attempting to solve different parts of the healthcare system, i.e. prescription pricing caps and pricing disclosure. However, each of these factors represent troubling aspects of our current healthcare system, but individually they only address part of the bigger picture, part of the larger evil. The most substantial social ills, like those perpetrated in the U.S.'s current

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[65] Ernest Van Den Haag, "The Ultimate Punishment: A Defense of Capital Punishment, ed. Judith A. Boss, (New York: McGraw-Hill, 2013), 235.
[66] Ibid.
[67] Ibid., 327.
[68] Davion, "Healthcare in the United States: Evil Intentions and Collective Responsibility," 327.
[69] Ibid.
[70] Ibid.

healthcare system, must be attacked directly and in their entirety by demonstrating their immorality. By naming acts as evil and attacking evils directly, instead of focusing only on the inequalities associated with them, Davion argues that the injustices and inequalities related to those evils would be eliminated as well.[71] This way, rather than smaller issues that are possibly not evils taking precedence in arguments, larger social evils can be eliminated thereby solving many injustices and inequalities in the process. Davion takes a collectivist approach to culpability and argues that collective moral responsibility and action is the solution for solving the ills plaguing the United States healthcare system.

It is crucial to lay out Victoria Davion's rendition of Claudia Card's conception of evil. In Card's theory of evil, instead of focusing on evil as a character trait of a person, she focuses on large scale evils in the world, using atrocities as paradigms of evil.[72] She narrows her definition in this way because evils can be recognized without knowing the motivation or thought process of the person doing the evil.[73] For example, we may never know the motivation behind Ted Bundy's behavior, but we do know that his murders were evil precisely because people share certain basic moral intuitions. Instead of focusing on the persons' motivation, evil is characterized by the wrongdoing and the harm inflicted. Similarly, liability cannot be avoided by offering excuses about one's motivation. Davion argues, "an agent does not have to have evil motives in order to have evil intentions."[74] An agent can intentionally do an evil deed inspired by a motive that is not necessarily evil,

[71] Ibid., 328.
[72] Ibid., 326.
[73] Ibid.
[74] Ibid.

such as protecting one's family. Nonetheless, the action is evil when it produces intolerable harm and, especially, if it is done intentionally.

To illustrate her claims, Davion gives two examples 1.) "sending large numbers of people to death in order to further one's career is evil, even if the motive is to enhance one's career and not to kill the people" as in some cases during the holocaust; 2.) "the goal of slavery may have been cheap labor, but the fact that it made the lives of so many intolerable makes it evil regardless of the reasons why people engaged in it."[75] Davion does not wish to establish a moral equivalence between the harm of lacking healthcare and the holocaust or slavery but, instead, uses these examples to show that one does not need to know the motives of a person for that person to be culpable of an evil atrocity.

Not all wrongdoings are evil; however, according to Davion, "wrongdoing is an evil when it results in the infliction of intolerable harm on others."[76] Likewise, not all evils are atrocities. Davion states that, "atrocities are large-scale evils that make the lives of many individuals intolerable."[77] The notion of intolerable harm is used normatively, reflective of Card's conception of a tolerable life. For example, Davion considers a tolerable life as including those things that are necessary for human flourishing: a clean environment, uncontaminated food and water, relief from intolerable pain, fear, the ability to make choices in one's life, and a sense of personal worth.[78] Evil brings about oppressive conditions that make life intolerable and that does not support human flourishing. Davion describes the criteria that we can use to identify harm that is evil in the following way:

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[75] Ibid.
[76] Ibid.
[77] Ibid.
[78] Ibid.

(1) be reasonably foreseeable (or appreciable)

(2) be culpably inflicted (or tolerated, aggravated, or maintained),

(3) deprive, or seriously risk depriving others of basics that are necessary to make a life possible and tolerable or decent (or to make death decent).[79]

Thus, if evil has occurred, the perpetrator is culpable because he/she 1.) aims to bring about intolerable harm; 2.) he/she is willing to do so while pursuing an otherwise acceptable aim or adhering to a value or principle; and 3.) he/she fails to attend to the risks or take them seriously.[80] Culpability may also extend beyond those typically associated with perpetuating the wrong. Especially corrupt evils engross the public where "victims of evil are at risk of moral character deterioration and of becoming complicit."[81] Morally problematic choices of agents (who may also be victims) involved in evil can in turn oppressively cement the status quo supported by the oppressor. In this context, those involved are culpable along with those who originally perpetrated the evil.

Card calls the worst types of evils "diabolical" evil. Accordingly, diabolical evils create "grey areas." Davion developed the notion of grey areas as an offshoot of Primo Levi's notion of "grey zones."[82] Grey areas occur when culpable people in positions of power, "place people in situations where they are victims of evil, and in which the most "attractive" choice (which may not be attractive at all) is to perpetrate evils on other victims."[83] Card argues that exploitative situations create an intolerable life for those who

[79] Ibid.
[80] Ibid.
[81] Ibid., 328.
[82] Ibid., 328.
[83] Ibid.

are oppressed and "frees the energies of those on top for the joyous pursuits of cultural development." At the same time, these same individuals avoid having dirt on their hands, through the illusion of being innocent.[84] When victims participate in evil, it is natural to blame only the victims. At other times, evil goes unnoticed because of the conviction that it is just a reflection of how things are. In this instance, the greater evil is not acknowledged or confronted. By focusing on the healthcare issue as a large-scale evil atrocity, instead of only focusing on individual instances of injustice, systemic evil is uncovered, and collective culpability cannot be avoided.

The government of the United States' failure to provide healthcare to its citizens is a large-scale, immoral evil. Those in positions of political power, and those professionals who perpetuate the status quo are culpable. The United States' failure to provide healthcare meets each one of Davion's criteria of an evil and culpability. The first criterion for an act to be considered evil is, that the harm is reasonably foreseeable or appreciable – which can be understood by reference to the foreseeability standard used in tort law.[85] According to this standard, someone can be held liable for an injury if a reasonable person could have foreseen the harm of the action and if the tortfeasor continues to carry it out anyway. The foreseeability standard can also be applied to those in a particular position of authority/power. In this way, those people who have significant knowledge on a topic, (possibly market knowledge in the case of healthcare), are also liable if they could have foreseen that an action or policy would cause harm. Accordingly, I argue that the Government of the United States has a specialized understanding of the ways the current

[84] Ibid.
[85] Ibid., 326.

healthcare system harms its citizens. However, it chooses not to act in an effective manner to rectify the harm.

The national healthcare crisis meets the foreseeability standard both from the perspective of government and that of the average American citizen. First, the American government has specific knowledge that makes the injuries resulting from the American healthcare system easy to understand and predict. Indeed, any clear-thinking layperson of the United States could reasonably foresee the harms associated with this system because of his/her individual firsthand experiences with it. In addition, it is foreseeable because the scale of the harm is large enough to be easily recognized publicly. Here are some facts to consider: 1.) in 1945, President Harry Truman was already suggesting universalized healthcare; 2.) in the 1970s, Princeton economists Herman and Anne Somers suggested full government subsidies for health insurance along with the National Center for Policy Analysis; 3.) in 1971, health insurance vouchers were first proposed by Dr. Paul M. Ellwood; (4.) in the 1990s, economist Peter Ferrara, with the National Center for Policy Analysis, also supported these healthcare measures;[86] 5.) in 1993, the Clinton administration proposed the Health Security Act; 6.) Mitt Romney signed into law mandatory healthcare cost assistance measures in Massachusetts in 2006; 7.) in 2007, President Bush in his State of the Union addressed healthcare issues and advocated for health savings accounts and tax credits;[87] and recently 8.), in 2010, President Obama created the Health Insurance Marketplace. The US Government and economists, with their unique knowledge, and the public understood the harm associated with a privatized

[86] Kotlikoff, Laurence. *The Healthcare Fix, Universal Insurance for All Americans* (Cambridge: MIT Press, 2007), 72.
[87] Ibid., 63-72.

healthcare system. Along these lines, the national healthcare crisis was reasonably foreseeable and appreciable.

Davion's second criterion (that the relevant act is culpably inflicted) and third criterion (regarding the deprivation of a tolerable life) are closely tied to her understanding of culpability. To be evil, an act must also be "culpably inflicted (tolerated, aggravated, or maintained)," and depriving or seriously risks depriving people of a tolerable life.[88] First, I will examine the ways in which America's failure to provide all of its citizens with health insurance deprives its citizens "of the basics that are necessary to make a life possible and tolerable or decent."[89] Davion rightly argues that "healthcare is invaluable in helping to alleviate intolerable suffering."[90] In order for a person to have a tolerable life, he/she must enjoy some adequate level of health and healthcare. For example, if a person is going to maintain his/her health, he/she needs annual examinations, preventative care, necessary surgeries, etc. However, for millions of people in the United States, this is not the case. People are unable to receive even the most basic types of care because they do not have insurance or cannot afford it. People live with agonizing pain and life-threatening undiagnosed conditions. Many times, these conditions worsen, substantially impairing the patient's ability to live a minimally normal life. We are all aware of the harms, and problems associated with the lack of health insurance; there are, however, other egregious harms associated with the healthcare crisis that are depriving people of a tolerable life and contribute to its classification as evil.

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[88] Davion, "Health Care in the United States: Evil Intentions and Collective Responsibility," 326.
[89] Ibid.
[90] Ibid., 329.

One of the worst examples of an evil harm perpetrated by the healthcare system is the opioid crisis, which has been declared a public health emergency. According to the Center for Disease Control and Prevention, more than 700,000 people died from drug overdose from 1999 to 2017.[91] Furthermore, over 130 Americans die every day from an opioid overdose, amounting to 47,450 opioid overdoses a year, with some reporting agencies estimating the numbers to be even higher. [92] There are various reasons why this epidemic occurs, however, the privatized for-profit healthcare system in America is culpable for many of these opioid deaths.[93] Many states and local governments are bringing suits against big pharma companies such as Johnson and Johnson and Purdue Pharma for their liability.[94] They are seeking, and some have been awarded, billion-dollar settlements that will help these states provide resources and recover costs associated with the opioid crisis.[95]

The real victims of the opioid crisis, however, are those addicted to and dying from the drugs predatorily prescribed to them. Not only did addicts pay too much for their healthcare visit or hospitalization when the drugs were initially prescribed, but they were lied to and told they were safe and not habit-forming. Once a patient (victim) becomes addicted, doctors continue to prescribe the medicine because doctors receive massive

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[91] "Centers for Disease Control and Prevention, National Center for Injury Prevention and Control," Page last reviewed October 23, 2017, https://www.cdc.gov/drugoverdose/epidemic/index.html. Accessed 19 August 2019.
[92] Ibid.
[93] Steven Ross Johnson. "The Opioid Abuse Epidemic: How Healthcare Helped Create a Crisis," February 13, 2016, https://www.modernhealthcare.com/article/20160213/MAGAZINE/302139966/the-opioid-abuse-epidemic-how-healthcare-helped-create-a-crisis.
[94] Brian Mann, "Not Just Perdue: Big Drug Companies Consider Settlements To Resolve Opioid Suits," *NPR*, August 28, 2019, https://www.npr.org/2019/08/28/755007841/several-big-drug-companies-considering-massive-settlements-to-resolve-opioid-sui.
[95] Ibid.

monetary kickbacks from pharmaceutical companies. The patients, therefore, continue paying for high priced prescriptions that they do not need but are a source of addiction and a leading cause of death.

The opioid crisis is a prime example of why America's failure to provide healthcare is immoral and evil. Card argues, "an institution is evil when the production of intolerable harm is a foreseeable result of its normal operation." [96] Over the years, the health insurance system has failed to make mental/chemical health services affordable and, consequently, predatory marketing and prescribing have been able to flourish. The consequences of this inaction are clearly devastating. They are, without a doubt, reasonably foreseeable and they continue to inflict intolerable injuries on a massive portion of the public, robbing addicts and their families of the chance to live productive lives. The government's failure to provide adequate resources to institutions in order to combat such a crisis, especially when the government has adequate resources to do so, is unjustifiably evil.[97] Instead of the government maintaining and creating new and improved mental/chemical health institutions and treatment centers to support those in need, they have defunded institutions and jailed those afflicted with mental illness and drug addiction. It is apparently much easier to stigmatize and criminalize citizens with chemical dependency and mental health issues than to address the failing health insurance system.

[96] Davion, "Health Care in the United States: Evil Intentions and Collective Responsibility," 329.
[97] Ibid.

CULPABILITY

Having explained why the United States' failure to provide its citizens with a universal minimum of healthcare is a large-scale evil, I will expand now on the issue of culpability. As previously stated, culpability primarily functions to highlight moral responsibility and is closely connected with Davion's notion of evil. In order to be held morally culpable for an evil, the act must aim to bring about intolerable harm in the course of pursuing an otherwise acceptable aim or adhering to a value or principle, and fail to seriously attend to risks.[98] America is morally culpable for the healthcare atrocities imposed on the American people precisely because the American healthcare policy is informed by harmful, inaccurate American myths. The policy is enacted intentionally to protect American core ideals and principles and, in doing so, fails to attend to the risks/harms associated with pushing a policy aimed to fit such faulty notions. These American values and ideals, among other things, include: freedom, the principles of autonomy, independence, and self-sufficiency. They are all destructively idealized, blinding the American public to the harms associated with them. While it may not be the politician's motive to harm millions of people through ineffective healthcare policy, that is not what matters to Davion and Card. What matters is that politicians and other policy makers intentionally enacted harmful healthcare policies because they uncritically appeal to American ideals that perpetuate harm.

These stated American principles harm women, the poor, and other marginalized groups in several ways. First, self-sufficiency and autonomy have historically been used as ideals to construct the identity of white men as *bona fide* citizens in the US. At the same

[98] Ibid., 326.

time, women and people of color were forced to claim identity on different grounds.[99] This historical dynamic approach created a sexist, racist, and classist dimension to the American ideal.[100] America celebrates the character of the "autonomous agent" while historically, neoliberal white men have gained their practical identities on the backs of women and others considered second-class citizens.[101] Fundamentally speaking, however, this national identity is a myth and results in what Davion calls "phony freedom." It is "phony: precisely because many Americans value a false sense of independence and self-sufficiency and fail to acknowledge that their independence is gained through community.[102] Davion argues that, "self-sufficient or independent means denying the dependencies on others that all human beings share."[103] Not only are women and other marginalized groups excluded from participating in forming a plausible sense of identity that is valued by others. Ironically, they contribute to building the identity of others through their invisible labor that allows the myth of self-sufficiency to flourish.[104] For example, migrant workers, caregivers, mothers, part-time employees, all work to make someone else's life fully autonomous while being ridiculed and denied the opportunity to form their own identity. These myths create an uneven relationship between the oppressed and the oppressor, ultimately reaching the point where there is unequal opportunity and where the oppressed are then considered blameworthy for not living up to such an unrealistic social ideal.

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[99] Ibid., 333.
[100] Ibid.
[101] Ibid.
[102] Ibid., 334.
[103] Ibid.
[104] Ibid.

The second significant way in which American principles work against marginalized peoples is through blame. Because personal success in America has typically been characterized by self-sufficiency, or "pulling yourself up by your bootstraps," dependence is portrayed as not trying hard enough, a shameful moral failing, which diminishes the moral responsibility to help dependent Americans.[105] Blaming marginalized people for their lack of idealized success works to promote the argument that universal healthcare is immoral. If those who do not live up to the "American ideal" are immoral, "it would be unjust to institute a redistribution scheme where those who have succeeded in the quest for economic self-sufficiency are taxed in order to provide care for those who have failed."[106]

What this argument fails to recognize, firstly, is that Americans do not live up to this ideal precisely because it is a myth perpetuated to protect the status quo. Accordingly, those who protect the status quo should be culpable for the associated harms. Secondly, innocent citizens struggle because resources are not equitably distributed to those who need them. Thirdly, perhaps they are in an oppressive power relationship or have a disability. None of these factors necessarily indicate a moral failing but, rather, implies the moral responsibility of the members of the community to support each other. American ideals deny interconnectedness, and uncritically support destructive American myths that leads to the culpability of those who benefit from exploiting them. Davion claims that Americans have a responsibility to be aware of the harms they are creating and that they have a responsibility to help more dependent people because of our real interconnectedness.

[105] Ibid.
[106] Ibid.

Davion uses Michele Moody-Adams' concept of "affected ignorance" to highlight the relationship between "Phony Freedom" and moral culpability, especially as it relates to universal healthcare. According to Adams, affected ignorance is "choosing not to be informed of what we can and should know."[107] In this way, Americans who believe in the idealized "American dream" of self-sufficiency and who refuse to examine their beliefs should be held morally culpable for the harms associated with such values. Adams argues that "individuals should be held responsible for critically examining conventional beliefs and practices."[108] Even if a belief is culturally sanctioned, it does not excuse people from critically examining their ideas.[109] For example, slave owners who conveniently believed their slaves were not human beings are no less culpable.[110] Clearly, slave owners had self-interested motives not to question the culturally sectioned belief that slaves were not fully human."[111] This willful ignorance should not be accepted as an excuse for carrying out atrocities against fellow human beings.

In a similar way, Americans are culpable for the harms associated with the healthcare crisis. Davion argues, "it is in the interests of the powerful and privileged to maintain that they have earned their power and privilege, that they are not dependent upon others, and not responsible for the problems of others."[112] She continues, "this is a myth that allows people to blame others for not having the means to secure healthcare as a private commodity. It is clearly evil, and those who hold it should be held responsible to change

[107] Ibid., 335.
[108] Ibid.
[109] Ibid.
[110] Ibid.
[111] Ibid.
[112] Ibid.

it."[113] In order for healthcare to be distributed equitably across the nation and, similarly, in order for these myths that perpetuate harm and blame to be eliminated, healthcare must be framed as a communal good. Because the current healthcare system rests on false assumptions of self-sufficiency, assumptions that facilitate immoral evil, moral claims must be made against those values. Instead of considering healthcare a private commodity, healthcare should be regarded as a collectivist public good.

CONCLUDING REMARKS

In this chapter, I have argued that withholding healthcare to the citizens in the United States is an immoral evil on two grounds: America has the resources to provide healthcare to its citizens, and the current free market healthcare system is knowingly and egregiously harming the public. I also argue that those who manage the current healthcare system are culpable for these harms and responsible to help change the system. I argue this because those who manage the healthcare system do so intentionally as a means to protect among other things an unhealthy possessive individualism which is an evil. To remedy the problems plaguing the healthcare system healthcare must be considered a communal good. By this I mean healthcare should be considered a communal good and not distributed on the free market. To make this argument rights must then be considered as originating in the community which then creates a moral obligation to those in our communities and reduces individualistic evil. However, I must first respond to Robert Nozick's Libertarian theory of justice as applied to healthcare. Nozick proclaims that rights are prior to the community. I

[113] Ibid.

will then answer this objection to universal healthcare using Michael Walzer's communitarian perspective of justice, which accounts for the equal distribution of healthcare as a need in society.

CHAPTER 3

COMMUNITARIAN DEFENSE

Many individualists argue that healthcare should be distributed through primarily the free market where anything over and above private acquisition of coverage would be considered charity. A benevolent person could contribute to the less fortunate but are under no sort of compulsion to do so. Universal healthcare, on this view, would be considered an immoral violation of one's rights and an unwelcome socialist imposition. Fundamentally, the principles supporting the privatized distribution of healthcare are similar to those defended by Robert Nozick's theory of justice. Robert Nozick is a libertarian who appeals to principles of justice that exist outside the political community such as natural-born rights to life, liberty, and property to justify that no one, including the government, should infringe upon the property rights of individuals.[114] Nozick's natural rights precede society; therefore, society cannot influence or change rights.[115] Essentially this is the same way that many Americans who wish to keep healthcare in the free market conceive of their rights.

H. Tristram Engelhardt follows Nozick's line of reasoning in the *Foundations of Bioethics,* outlining Nozick's model of health care distribution.[116] Margo Trappenburg summarizes Engelhardt's position as, "People's rightfully acquired property may not be

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[114] Margo Trappenburg, "*Defining The Medical Sphere*," *Cambridge Quarterly of Healthcare Ethics* 6 (1997): 3.
[115] Ibid.
[116] Ibid., 8.

taken away in order to meet other people's needs; it is as simple as that."[117] If there is inequality between individuals through natural or social lottery, it does not matter; a person has a right to legitimately acquire their property. Engelhardt's position leads to a free market healthcare system with a communal fund that benevolent people can contribute to if they wish.[118] He argues, "The test of whether one should transfer one's goods to others will not be whether such a redistribution will prove onerous or excessive for the person subjected to the distribution, but whether the resources belong to that individual."[119] In short, a citizen has the choice to do with his/her property as he/she chooses and government may not compel money from one person to another without permission.

Trappenburg acknowledges that, "the main advantage of this theory is that one does not have to worry about the size of the healthcare budget.[120] Congress could then go on and allocate the large sums of what would potentially be healthcare funds to other projects they deem important. Trappenburg also claims that free market healthcare could benefit some citizens. Instead of being taxed for universal healthcare citizens could go on spending their money however they wish. She says, "the amount of money they decide to spend on health care is by definition the right amount."[121] Rather than the government dictating what amount is suitable for coverage the individual chooses for themselves. While these options might be acceptable for some citizens, I argue that choices like these are made without consideration of the public's welfare. Not every citizen can benefit from this free market arrangement and healthcare decisions definitely should not be made based on the difficulty

[117] Ibid.
[118] Ibid.
[119] Ibid.
[120] Ibid.
[121] Ibid., 8.

of making a budget. This sort of free market approach may be acceptable for other goods but not for health. Thinking of healthcare as a choice allows individuals to avoid liability for the harms accruing when people lack healthcare. However, persons cannot opt out of needing healthcare.

Though distributing healthcare, based upon a theory of justice such as Nozick's, may seem suitable to some in the United States, it must, nevertheless, contend with several issues. First, property owners would have to show that their property is rightfully acquired.[122] For example, if the massive amounts of wealth accrued by the one percent in the United States was not rightfully acquired, then possibly that money should be distributed to fund a universal minimum of healthcare. Secondly, because Nozick appeals to natural rights to life, liberty, and property, his theory must contend with those who do not believe such is correct, because it leads to a society that does not have a moral responsibility to the community.[123] Thinking of rights as natural and prior to society has many unacceptable consequences. Some of these consequences include the individual being considered paramount, an embodiment of uninhibited autonomy and self-sufficiency, which leads to immoral evils being perpetrated against citizens who are blamed for their lack of self-sufficiency, especially when it relates to healthcare.

Another issue with thinking of rights as prior to the community is that it has contradictory implication as I previously noted. Charles Taylor argues, firstly, the idea of self-sufficiency Nozick praises is not possible without community, therefore, if rights are derived from within a community, this development contradicts atomistic theories of

[122] Ibid.
[123] Ibid., 9.

individual rights. Secondly because exercising such rights, such as non-interference, requires making claims on others within the community, this implicitly endorses a moral obligation to the community, again contradicting atomist theory. Taking this into consideration a person must assume that rights and obligations are embedded in the community for the collective good of the community. If this is the case, a community must be able to justify why healthcare belongs in the free market and pursue this task without appealing to individualistic rights. As I have previously argued, healthcare is not a regular commodity but a social good for several reasons. The most important of these reasons is that purchasing health insurance in the free marketplaces it out of reach for millions of people. Lacking healthcare coverage leads to deaths. Furthermore, the predatory quest of profits within the healthcare market harms innocent patients. Lacking proper healthcare is not the same thing as not getting your favorite pair of shoes; it can be the difference between life and death, human flourishing, or a life of suffering.

Instead of appealing to individual rights as prior to the community to justify oppressing groups of people arbitrarily by restricting healthcare to the free market, the United States could use a communitarian model of justice where rights derive from within the community. A communitarian theory of justice would then further justify the moral obligation of the state to provide social goods to the community.

Michael Walzer's theory of justice, for instance, advocates the distribution of social goods through three different spheres, "need, desert, and free exchange."[124] According to Walzer's position, different spheres would distribute goods in different ways.[125] For

[124] Margo Trappenburg, "*Defining The Medical Sphere*," *Cambridge Quarterly of Healthcare Ethics* 6 (1997): 10.
[125] Ibid.

example, the principles operative in the need sphere would not apply to the job market. For example, the fact that an individual is poor does not obligate someone to hire that individual.[126] If the United States considered healthcare a need, as I have previously argued, under Walzer's distribution, healthcare would be placed in the need sphere and, if someone is poor, it would not matter; he/she would receive healthcare precisely because it is a need regardless of the factors that would matter in the deserts sphere.

While many people may disagree and argue that health should be considered under the free market's principles, such as non-interference, they would have to justify why healthcare belongs in that sphere and decide as a community. Defending healthcare under the free market would be a difficult feat to accomplish, considering all of the evil harms that are perpetrated in its name. Walzer's approach does, however, have another benefit that would appeal to many Americans. Walzer does not recommend dismantling the free market, and many other goods would remain in the free market, even certain parts of healthcare. While Walzer prefers to keep spheres separate, he does allow for some mixed associations.[127] In this way a universal minimum of healthcare could be considered a need that does not preclude components of the free market for those who oppose universal healthcare. In this sense Walzer's approach strikes a balance between different communities' values in the US without triggering individualist fears of socialism.

[126] Ibid.
[127] Ibid., 12.

CONCLUSION

Throughout this thesis, I have examined why the universal healthcare issue is properly framed as a moral issue, and how the lack of access to healthcare in the United States is best understood as an immoral evil. The healthcare crisis is a moral issue because society has justifiable duties and responsibilities to its members. Additionally, the scale of harms that result from lacking proper healthcare is morally unjustifiable. Rather than using traditional moral and political philosophies and theories of justice that prioritize individual rights, freedom, and autonomy, I have shown that these notions are destructively false, idealized myths used in the US to prioritize the individual over the community while protecting the status quo. The individual is an individual as a result of being part of a community; this communal belongingness creates a moral obligation to one's fellows. Most approaches that do not take this stance will inevitably prioritize individual autonomy as a primary good over the communal good in an extreme way. By examining the immoral harms that lacking healthcare creates, I have shown that no reasonable person should hold a position that selfishly prioritizes his/herself-interests over the interests of others. This is the case especially with regard to healthcare because the lack of proper access to healthcare causes harm and death for millions of innocent people.

In the second section of this paper, I argued that America has a moral obligation to supply a universal minimum of healthcare to its citizens. I claim that America's failure to recognize its obligations to its citizens is an immoral evil in which it is culpable for the

egregious harms associated with lacking coverage. The United States has the resources to ensure that every American has actual access to at least the minimum level of healthcare. The government and layman have been aware of the problems associated with lacking proper coverage, for the harms have been reasonably foreseeable for decades. Because the government has committed an immoral evil by intentionally not implementing universal healthcare in the pursuit of protecting American core values at the cost of lives, the American government, and those that support such restrictive policies, I have argued are morally culpable for these harms. To remedy this problem, people must be held accountable, and universal healthcare should be considered a communal social good that is distributed to everyone as equally and equitably as possible.

Finally, in section three, I defended a universal minimum of healthcare against the charge of individualistic evil in the US, whose essential foundation stems from rights theories like those of Robert Nozick. I argued that healthcare under this model, which remains in the free market, cannot be justified and that, in turn, healthcare in the United States must be considered a common social good distributed on the basis of need, a need which every person has as a result of being human.

It may be difficult for citizens of the US to acknowledge their moral obligation to their community on a macro level as it relates to healthcare. State and Federal governments have differing healthcare policies, and political rhetoric on television spews hatred towards welfare beneficiaries. However, a moral obligation is much easier to recognize on a micro-level by thinking of associations within the family unit and neighborhood. When denying healthcare in the US is framed as an immoral evil, however, the confusion over being obliged to end such an evil is quelled. No one can allow thousands of people to die at the

hands of a predatory healthcare system and deny his/her obligation to stop such atrocities; it is immoral. Citizens must critically examine their society and recognize their responsibility to end such large-scale evils. What this means for even larger social international healthcare evils remains a question. .

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