

# ENHANCING JOHN RAWLS'S THEORY OF JUSTICE TO COVER HEALTH AND SOCIAL DETERMINANTS OF HEALTH<sup>1</sup>

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**Abstract:** The vast improvements in medical technology reviled the crucial role of social determinants of health for the etiology, prevalence and prognosis of diseases. This changed the content of the right to health concept from a demand of health services, to a claim of having access to all social determinants of health. Thus, the just allocation of scarce resources of health and social determinants of health became an issue of ethical theories. John Rawls developed a theory of justice. His theory suggests that the principles of justice should be determined by individuals in a hypothetical initial position. In the initial position, individuals agree on principles of justice. Rawls puts forth that the institutions of the society should be structured in compliance with these principles to reach a fair social system. Although Rawls did not justify right to health in his theory, the efforts to enlarge the theory to cover right to health flourished quite fast. In this paper first the basic components of Rawls theory is explained. Then the most outstanding approaches to enlarge his theory to cover right to health is introduced and discussed within the discourse of Rawls theory of justice.

**Key words:** distributive justice, ethical theory, right to health, social determinants of health

## Mejora de la teoría de justicia de John Rawls para abordar temas de salud y los determinantes sociales de la salud

**Resumen:** Los grandes avances en tecnología médica desafían el papel crucial de los determinantes sociales de la salud en la etiología, prevalencia y pronóstico de las enfermedades. Esto cambió el contenido del concepto de derecho a atención de salud desde la demanda de servicios de salud a la demanda por tener acceso a todos los determinantes sociales de la salud. Por lo tanto, la distribución de escasos recursos en salud y los determinantes sociales de la salud llegaron a ser tema de teorías éticas. John Rawls desarrolló una teoría de la justicia. Su teoría sugiere que los principios de justicia deberían ser determinados por los individuos desde una posición inicial hipotética. En la posición inicial, los individuos se ponen de acuerdo en principios de justicia. Rawls establece que las instituciones de la sociedad deberían estructurarse para cumplir con estos principios para poder alcanzar un sistema social justo. Aunque Rawls no justificó el derecho a la atención de salud en su teoría, se introduce y discute, dentro del discurso de la teoría de justicia de Rawls, los esfuerzos para ampliar su teoría para cubrir el derecho a la atención de salud.

**Palabras clave:** justicia distributiva, teoría ética, derecho a la salud, determinantes sociales de la salud

## Enfatizando a teoria da justiça de John Rawls para envolver a saúde e as determinantes sociais da saúde

**Resumo:** Os amplos aperfeiçoamentos da tecnologia médica deturparam o papel crucial das determinantes sociais para a etiologia, prevalência e prognóstico das doenças. Isto tem mudado o conteúdo do conceito do direito à saúde originado da demanda de serviços de saúde para a reclamação de acesso a todas determinantes sociais da saúde. Assim, a adequada alocação de escassos recursos para a saúde e as determinantes sociais de saúde tornam-se um tema de teorias éticas. John Rawls desenvolveu uma teoria de justiça. Sua teoria sugere que os princípios de justiça deveriam ser determinados pelos indivíduos numa situação hipoteticamente inicial. Na situação inicial, os indivíduos concordam sobre os princípios da justiça. Rawls coloca objetivamente que instituições sociais deveriam ser estruturadas em conformidade com estes princípios para alcançar o sistema de justiça social. Embora Rawls não tenha justificado o direito à saúde em sua teoria, os esforços para ampliar a teoria para envolver o direito à saúde floresceu rapidamente. Neste artigo primeiramente os componentes básicos da teoria de Rawls são explanados. Então, as mais importantes abordagens para ampliar esta teoria para alcançar o direito à saúde são introduzidas e discutidas dentro do discurso da teoria de Rawls sobre a justiça.

**Palavras-chave:** justiça distributiva, teoria ética, direito à saúde, determinantes sociais da saúde

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## Introduction

Right to health may be defined as a fundamental right each and every individual has per se being human. Right to health is considered within the frame of ethical theories and is tried to justify in the paradigm of theories in the scope of medical ethics.

With the vast improvements in medical technology, the crucial role of social determinants of health such as education, employment, housing and social security, for the etiology, prevalence and prognosis of diseases is better understood. The priority position of these determinants for being and staying healthy changed the concept of health from a limited view which only focuses on prevention and cure to a more comprehensive discourse which covers physical, social and physiological wellbeing. Thus the context of right to health changed accordingly and commenced the claims for social determinants of health. The new discourse of the said concepts led to the problematique of distribution of resources for social determinants of health to be a subject of social justice theories.

## Historical Background and Aims

John Rawls's theory of justice, which is considered as a contemporary reflection of egalitarian ethical theories, addresses the issue of fair distribution of social goods. Although Rawls did not discuss right to health in his theory, the attempts to enlarge the theory to cover the concept of health advanced vastly. In this paper, first Rawls theory of justice is handled followed by the discussion of the initiatives to extend his theory to cover right to health.

The first aim of Rawls theory is to achieve a well ordered and well administered community by the establishment of a fair distributive system of social goods. He emphasized on the need to focusing on fairness instead of absolute equity of the distribution. Rawls suggested that individuals will be able to pursue their own goals and realize their rational life plans within the well-ordered and well administered community. Rawls developed this idea by following the social contract discourse which is raised by John Locke, Jan Jacques Rousseau and

Immanuel Kant in the 17th and 18th centuries. Locke said that the political authority emerges from a social contract between administered and administrator with the presence of volunteered consent of the administered. Rawls carried the idea of social contract further and aimed to put forth an argument that forms the basis of the modern social justice system. Rawls started his argument by defining the concept "good" as the satisfaction of rational desires. Rawls assumes that every individual makes her own rational life plan depending on her own concept of "good". Rational life plan is the plan which cannot improved more and is preferred to any other option. According to Rawls the society is responsible for the distribution of primary goods necessary for the individuals to realize their rational life plans. It is the fair distribution of these primary goods which Rawls aims to develop a theory of justice(1).

Rawls puts forth that the first subject of justice is the basic structure of the society. He claims the social institutions which distribute the goods should be structured to act in accordance with the principles of justice while distributing the fundamental rights and responsibilities. Thus the first step to a well-administered society is to determine the principles of justice. As soon as the principles of justice are determined, the social institutions of the society will be formed to distribute the primary goods according to these principles hence the well-administered society will be achieved.

Rawls addresses justice on the basis of fairness and puts forth that fairness is achieved when each and every individual has access to the services she needs. The important aspect of Rawls's view is that justice can be achieved not by absolute equity but by fairness and justified his claim depending on two principles.

Rawls initiates his theory of justice with the question; on which principles should we agree to reach a society with a fair fundamental structure? Societies are formed by gathering of individuals who have their own unique concepts of "good". Individuals are rational beings thus they have the ability to make their life plans depending on their own concepts' of good and these plans are subject to change or improvement when needed.

## Primary Goods

Individuals need some fundamental resources to realize their life plans; these are called “primary goods”. Primary goods may be defined as the things free and equal citizens need all through their lives to live as a normal and social member of the society. Rights, freedoms, income and welfare are the essential elements of the primary goods set. Primary goods are natural or social by source. Natural primary goods are the ones which are due to the natural lottery rather than the distribution by the social institutions. Depending on the natural lottery individuals may have or lack these resources. Because of the arbitrary lottery of nature, the society does not have any responsibility or obligation to redistribute these goods on the grounds of fairness principles. In other words, the natural primary goods are considered outside of the theory of Rawls. In the set of primary natural goods, health, intelligence, imagination and vigor exist. That is to say; when Rawls first defined his theory of justice as fairness in 1971, he left health out of the theory intentionally on the grounds that health is a natural good(1).

In his later works he stated that health is not only determined by natural lottery and social and communal factors may have impact on health, even more than the natural lottery does in some occasions. In these works he emphasized on the importance of preventive medicine such as vaccination and displayed the crucial role of these precautions for the health of both the individual and the society as a whole. Nevertheless we see no revisions made by Rawls in the theory to address health as a social primary good and consider it as a subject of fair distribution(2).

Second group of primary goods consist of social resources. Rights, freedoms, power, opportunities, income, welfare constitute primary social goods. Apart from these self-respect is also added to the list. According to Rawls, self-respect is the individual’s perception of her eigen value. This perception generates the motivation to constitute and to realize individual’s life plan. Forasmuch the eigen value of the individual provide a basis for the efforts of making and realizing the life plans. Through self-respect the individual

reaches a self-confidence to fulfill her plans and aims. Rawls considers self-respect as the most important social resource, as it is a prerequisite for the concepts such as fairness, responsibility, obligations, friendship and loyalty. In addition to that, individuals need to build up their life plans to reach their own *good* concepts. Thus, freedom of thought and conscience is included to the list of primary social goods. Freedom of travel and work, freedom of having income and welfare are added to the list due to the same reasons.

## Two Principles of Justice

Rawls’s theory of justice aims to constitute a system to ensure the fair distribution of primary social goods. This system requires the establishment of institutions to distribute primary social goods according to the principles of justice and fairness. The institutions established for the fair distribution of primary social goods are the subjects of justice. Rawls imagines a hypothetical original position to determine the principles of justice. Individuals are considered to be rational and capable of making rationalistic decisions as a priori. Another a priori acceptance is that individuals know how the greatest utility would be achieved and what the highest good is when they are in the original position, gathered to decide on the principles. Individuals are considered to be behind a veil of ignorance when they are in the original position. Veil of ignorance creates an environment in which the individuals are ignorant about their social status, gender, age, ethnicity, abilities, level of intelligence, level of education and likewise. In addition to that, veil prevents the individuals to remember what their own concept of *good* is and accordingly their life plans are(1).

Rawls puts forth that veil of ignorance is the assurance of the objectivity of the individuals when they decide on the principles of justice. The principles are to be impartial as the personal benefits are totally hidden behind the veil of ignorance, thus these principles are accepted as the fundamental principles of justice. The institutions are constituted in compliance with the principles of justice. As the administrative missions of these institutions are compatible with the principles of justice they are just, impartial and objective by nature. Rawls states that rational individuals agree

on two fundamental principles of justice in the initial position behind the veil of ignorance(1,3).

1. Equal liberty; each and every individual should have equal fundamental rights. Political liberties, liberty of conscience, freedom of speech and gathering, freedom of expression, self-respect, right to personal integrity, right of property, right to not being arrested arbitrarily, freedom of thought are considered among the fundamental rights. Rawls propounds that the individuals in the initial position would agree that it is fair to have absolute equality for the fundamental rights among the individuals.

In a democratic society, these rights and liberties are ensured by the constitution. According to Rawls, the fundamental rights in this list should be protected as the basic values of the societies and should not be negotiated for any other value or benefit as they provide the opportunity of being equal and free citizens to every individual in the society. Rawls states that liberties out of the list of fundamental rights are not considered as a priority for a fair society therefore they may be provided or restricted due to the decisions of administrators of the society. These rights and freedoms are subject to the second principle of justice.

2. Social inequalities, *Difference principle*; “the inequalities of income and welfare are considered to be fair if and only if these inequalities are for the benefit of the worst off”(4). The difference principle steps in when the distribution of resources out of the scope of the first principle justice, such as income and welfare, are considered and there need not to be an absolute equality of income and welfare for a fair society providing that this inequality serves for the benefit of the worst-off.

The second condition of the difference principle requires the positions in the institutions with responsibility and authority for the administration of the society to be accessible to every individual. In this way individuals have equal right to apply for positions in institutions, and these institutions will permit inequalities to enhance the benefits and advantages of the worst off(5).

## Initial Position and Maximin Principle

Rawls thinks it is rational to assume that the individuals behind the veil of ignorance would agree on the fairness of regulations for the benefit of the worst off, as they -themselves-may be in that group as well and calls this condition *maximin principle*. With the maximin principle Rawls aims to bring out a solution to the criticism against utilitarianism for ignoring the minorities for the sake of majority and undervaluing the unequal distribution of benefits and burdens in a society(6).

Rawls puts forth that there is a hierarchy between the two principles and that the first principle has a higher rank than the second one. The higher rank of the first principle creates an obligation not to bargain for the benefits of the first principle to get more of the outcomes of the second principle. As an example, we may not give up our fundamental rights to earn more income in a fair society of Rawls's. This argument grounds on the statement that without the liberties of the first principle, the fair distribution of the second principle cannot exist. Rawls says income and welfare would have a value if and only if there is an absolute equality of fundamental rights and opportunity for the positions in the institutions those rule the society(5).

The reason why Rawls preferred to offer difference principle instead of sticking to a pure egalitarian view has been discussed widely. Egalitarian justice foresees to distribute a cake in biggest possible equal pieces to every individual. At first sight this distribution seems fair but the problem arises when it is realized that the amount of cake is variable. Rawls put this in this way; in a given time the distribution of the cake influences the individuals' capacity to enterprise. If the distribution system gives incentive to the individuals to produce more, then the amount of cake will get bigger, hence the equal shares of each individual will be more relatively. In this analogy, cake represents the primary resources needed for the welfare of the society. Rawls think that a strict equal distribution would kill the motivation to produce more as individuals would be aware of the fact that no matter how much they contribute to economy they will get the same amount as everybody else. Furthermore the cake would

shrink by time because of the lack of motivation to improve and develop. Seeing this risk Rawls suggests the difference principle. With this principle, he both prevents the negative incentives to arise and reduce the amount of primary resources available and improves the status of the worst off simultaneously.

### Some Critics against Maximin Principle

Rawls is criticized about the maximin principle which works for the benefit of the worst off. In liberal economies the individuals who have more income and welfare find it unfair to redistribute their properties for the advantage of the worst off. Liberal ethical view includes the taxes collected by the governments in this context and puts forth that the duty and authority of the governments are limited to ensure the right to property and the sustainability of liberal market economy(1,5).

Some other critics against Rawls are related to the distinction he made between the concept of justice and the concept of deserving. The critics put forth that Rawls undervalues desert and that harms the conscience of the community. The people, who work hard, obey the rules and deserve the high positions or welfare should be able to have them. In their view, the concept of having the right to get what they deserve is key to hold the society together and promote hard work and improvement(7).

Rawls answers these critics by the argument that states; our status or welfare depends not only to our hard work but on our talents and abilities given to us by the natural lottery as well. The hard work and desert have an unbreakable linkage between what we got from inheritance and the social factors we are born into. The impact of our family, our social environment, and the properties of the community we belong is an essential factor to determine from where we start the race of life. Our hard work and personal efforts add onto or distract from our starting point. Thus, what an individual deserves depends very much on factors beyond her control, which makes the desert concept ambiguous. Hence the difference principle and maximin principle are there to ensure the fairness in the society.

For example the success of a scientist who invents something important depends both on her hard work and also her adequate level of intelligence, a good education, and a supportive family she is born into. Rawls emphasizes on the fact that the liberal economy rests on supply and demand rather than desert. The scientist's qualities like intelligence led her to an advantaged position because she was born in 21st century. She would clearly be disadvantaged if she was born in the centuries in which muscle power was needed to survive instead of brain power. Being born into a society or living at a time which values our qualities is a result of luck and has nothing to do with our hard work, desert or morality. Thus Rawls states that the difference principle is needed to amend the inequalities raising from natural lottery and to achieve a fair society(1,7).

Thus we may say that Rawls does not disregard loyalty or desert, but he states that these concepts can not form a ground for the fair distribution of goods as working hard produces outputs which have a varying value due to time and society. The values of the time and society are set beyond the individual's control. On the other hand, the outputs of an individual's hard work and efforts depend very much on the genetic or social qualities that individual has. Thus Rawls does not object to gaining social or economic acquisitions and advantages due to desert but he claims that these advantages should be subject to redistribution for the benefit of the worst off to achieve a fair society.

Rawls states that a fair distributive system should focus on the amount of primary social goods given to individuals not on the welfare they create by these resources. With this approach Rawls opens a space for individual responsibility and requires the individuals to do their best to produce the most possible outcome to pursue their own life plans(5). Rawls overcomes the well-known criticism made to utilitarian ethical theory for focusing on welfare only as the primary data for comparison among people's well-being, but ironically he is criticized by Amartya Sen and his followers for focusing only on inputs and ignoring the capacity of the individual to process the inputs to produce outputs.

## **Rawls and Right to Health**

In the initial position behind the veil of ignorance the individuals are ignorant about their abilities, their age, gender, social status and other qualities they have or lack. This statement indicates that they should be ignorant about their health status as well. However Rawls clearly states that in the initial position there is a pre-acceptance that the people have adequate level of health and intelligence to make and fulfill their rational life plans. He indicates that this pre-acceptance is inevitable to set up the theory as the distribution of health and intelligence are beyond the control of the society. Although he admits that to improve the level of health and intelligence the institutions of the society play a crucial role, still the main distribution of health is made by our genes which is due to natural lottery. Rawls is exposed to criticisms of abandoning the unlucky victims of the natural lottery who suffer the lack of health or intelligence by birth. Some other critics put forth that if the ignorant individuals in the initial position are rational beings they should be able to think about the possibility of having bad health or poor intelligence level, and agree to apply the difference principle for the people in this situation. These arguments lead us to find a point of convergence between the theory of justice of Rawls and right to health(1,3).

In the theory of justice, there are two steps to a fair society. The first step is the deliberation of principles of justice in the initial position, and the second step is to prepare the legislation to constitute the system. Rawls claims that health requires intense knowledge thus it should be handled by people who possess that expertise. Hence the legislations should be prepared by the experts within the frame of the principles of justice of the fair society. Depending on these arguments Rawls places health in the second step of the theory.

On the other hand, it is well known today that health is a wider concept than just curative or rehabilitative services, and preventive public health measures and services covering the social determinants of health play a big role for being and staying healthy. This knowledge creates strong doubts about Rawls argument regarding health. The attempts to enlarge Rawls theory to cover health as

a subject of principles of justice emerge on these grounds(3).

The attempts to evolve the theory to include health are classified in two headlines. The first group focusing on enlarging the list of primary social goods and add health to this list. The second group generates from the idea that health is an essential pre-requisite for the realization of the fundamental rights and freedoms are listed in the first principle and are subject to strict absolute equal distribution.

### **Enlarging the List of Primary Social Goods**

Before adding health to the list of primary social goods the first requirement is to prove that it is in compliance with the other primary social goods. Second requirement is to evaluate the correlation of health and social determinants of health with the requirement of measurability.

The proponents of enlarging the list of primary social goods find it plausible to think that health and social determinants of health are eligible for the rational overlapping consensus method. They argue that in the initial position the rational people behind the veil of ignorance, considering the difference principle, would agree that health is a primary social good. Forasmuch although the theory involves a priory acceptance about the adequate level of health to realize and determine life plans, it does not ensure that that level will be sustained all through the life span of the individuals. Hence a risk of losing health at any point of life cannot be eliminated. It is plausible to think that rational people behind the veil of ignorance would be precautious against this risk and reach an overlapping consensus to minimize it. Thus health fulfills the first requirement to be eligible for the list of primary social goods.

The second requirement seems easier to fulfill as many methods have been developed to measure the health status and level of access to social determinants of health. The data about health may be achieved from various sources and required measurements can be performed to make a comparison among individuals to determine the worst off. Depending on these arguments the proponents of enlarging the list find it plausible

to add health and social determinants of health to the list of primary social goods(3).

Another argument in favor of enlarging the list rests on Rawls statement about the obligation of protecting individuals from the negative impacts of natural lottery and risks arising during the life course. Health is one of the essential social resources those protect the individual from these disadvantages. In addition to that due to the difference principle fair society has an imperative to distribute the goods to the benefit of the worst off. Individuals with health problems are both prospects of being in the group of worst off and also the individuals who are in the worst of group tend to have more health problems than the others.

### **Norman Daniels and Normal Function Approach**

Daniels starts his theory with seeking answer to the question; on ethical basis where does our obligation to give health services to the people who are in needs of it? Most frequently this question is handled by focusing on the new interventions in medicine and health services and determining who should have the access to these services. However Daniels thinks the answer to the question should emerge from a much wider view as there are many factors other than innovative medical interventions and health services that affect health status of the individual and population. Air pollution, environmental pollution, safety in the workplaces, tobacco, alcohol and drug addiction, nutrition habits, food safety, decent and safe domicile are some of these factors. Thus, we should consider the impact of social political decisions on health when we are addressing right to health and the obligations and responsibilities emerging from this right. On these grounds, when the issue is handled on the basis of justice, the fair distribution of resources of social services should be taken into account.

With this view Daniels says that we should handle health together with all social determinants to reach the health status required for the normal functioning of human species. Hence ethical value of health services and social determinants of health emerges from their crucial role to provide

the individual the ability of normal functioning specific to human species. In other words, without these services individuals may not be able to fulfill the functions of a human being. Normal functioning is ethically important as it equips the individuals to have fair equal of opportunity. Thus Daniels puts health and services related to health in a higher ethical hierarchical position than other social goods. This position indicates that the ethical value of health and social determinants of health is greater than other social services. The ethical reasoning above forces Daniels to justify why equal opportunity is ethically important. At this point Daniels meets with the theory of Rawls and enlarges his theory to find the grounds of this ethical justification(2).

As mentioned above Rawls's theory defines individuals as; healthy, physically and psychologically able and rational equal ideals. The first principle of justice is to have equal access to the essential resources for welfare, self-respect, fundamental liberties and fair equal opportunity; the primary social goods. The determination of who is better off than the other individuals is done depending on the index of owing the primary social goods. Rawls defined primer social goods as the resources every rational being would ask for. In other words, the desire to have the primary social goods is an imperative of being a rational individual. Fair equal opportunity is one of the primary social goods which refer to the fair conditions of the rivalry to have the professional positions in the administrative institutions. The main purpose of fair equal opportunity is to diminish the negative impacts and disadvantages of social and/or natural lottery.

Rawls defines the normal opportunity range with a relative view by referring to the overall welfare level and the ethical norms of the society in which the individual lives. He defines the normal opportunity range as the opportunities needed by the individuals to realize her life plans which are in compliance with the social norms and developmental index. Daniels builds his argument about the unique and special ethical value of health on Rawls's definition of normal opportunity range stating that, meeting the health needs of individuals by health services and social determinants of health makes an essential contribution to fair

equal opportunity. In his view, health and social determinants of health are indispensable to realize the first principle. In this context, the list of primary social goods remains as it is defined by Rawls and being in good health appears as a precondition of this list(2).

Daniels revises the concept of normal opportunity range and defines it as the most possible opportunity range which the natal abilities and talents permit in a fair society. In other words, if an individual has all social services she needs to access the opportunities which her natal abilities and talents permit, then we may say that the social services are distributed fairly in the society she lives in. This distribution theory considers it necessary to minimize the disadvantages of individuals to whom nature was is generous about talents and abilities(2).

## Discussion

The first possible reason of Rawls' excluding health from his theory may be context of health at the time he developed his theory. In 1970's the impact of social determinants of health was not explicit as it is now. Hence it is plausible for Rawls to conceptualize health mostly determined by natural lottery and improved or affected mainly by curative health services rather than preventive measures and social determinants. In this regard Rawls left out health as a feature of human beings which has no connection a fair societies distributive justice principles and he placed health to the phase of legislation which follows the determination of principles of justice.

The second reason of the exclusion of health may be a deliberate action to reach a purpose. This idea is developed by Daniels. He uttered that Rawls may have comprehended the crucial role of health and social determinants of health and wittingly left health out of the theory. According to Daniels, Rawls' motive behind this deliberate action was to keep his theory simple and implementable. Rawls, seeing that health and social determinants of health would add a very complex dimension to the theory of distributive justice, preferred to adhere the original view and this way keep the integrity of his theory.

Three themes will be touched in the discussion section. The first theme is that Rawls did not make a hierarchical tabulation among the items in the primary social goods list. This is likely to cause some difficulties while attempting to enlarge the list to cover health and social determinants of health. Forasmuch, in some situations, the obligation to distribute the primary social goods in absolute equality may create some dilemmas regarding their impact on health. For example, to protect the society from communicable diseases compulsory vaccination programs may be necessary. In case health is included to the list of primary goods, compulsory vaccination should be applied to all individuals. On the other hand, compulsory vaccination contradicts the concept of individual liberties. Rawls' theory has no solution to such dilemmas arising from implementation. Hence the proponents of enlarging the list of social primary goods have a challenge to define solutions to the dilemmas without distorting the theory.

The second theme open to discussion is the validity of the argument by Rawls which states that, the primary social goods cannot be negotiated for the goods subject to difference principle. According to this argument, rational people never give up their liberties to increase their income or welfare. Rawls did not justify this argument. Rawls does not tell if there lies an empirical observation or a scientific objective data behind this argument or if there is a theoretical ethical justification. Hence, we can make some presumptions about the grounds of this argument. It may be arising from subjective norm deliberated by of Rawls depending on the idea that rational individuals would act like this. Another presumption is that it is a priory acceptance required to ensure integrity of the theory which seems like to be the most plausible option.

Whatever the justification is, the observations in the real life are not in compatible with this argument. Unfortunately there are many examples of people willing to give up some of their fundamental liberties for increasing income and welfare. These examples mainly come from countries where the national income is below absolute poverty levels. Individuals who face absolute poverty and have serious problems to meet their basic



needs to survive may not hesitate to abandon some of their rights thus a priori norm of Rawls fails in practical life.

This reasoning may be ruled out by proposing that exceptional examples are not sufficient to challenge the whole theory. Even if we accept this objection, the reasoning above is still valuable as it shows us the problems arising from adding health to the list of primary social goods. In case we include health and social determinants of health to the list of primary goods they may be subject to negotiation for more income or welfare. These statements worth further discussion for the enhancement of Rawls theory of justice,

Finally we will address to the discussion on egalitarian view and difference principle in the scope of adding health and social determinants of health to the list of primary social goods. Some egalitarians put forth that, supplying a minimum health services to all individuals regardless of their backgrounds and ensuring that no one has less services than the determined threshold is a fair distributive approach to health services. Daniels thinks the difference principle leads to fairer distribution than the egalitarian minimum approach by adding dynamism to the threshold of minimum services. Improving the health status of the worst off flourishes health status all population. Thus the need to determine a new threshold for the worst off emerges, but this time the worst off is imperatively in a better status than the previous one.

This dynamism would have some side benefits such as facilitating the utility of new technology health services by whole population instead of the best off group with financial means to achieve

them. Another side benefit would be for the administrators of the health system. In an absolute egalitarian approach, the administrators are done when they set the minimum threshold for the worst off. However the dynamism requires refreshing the threshold due to the flourishing health status of the population. Thus Rawls theory of justice gives them an implicit responsibility to improve health services and services related to social determinants of health.

## Conclusion

Rawls theory of justice is a comprehensive theory, developed on the grounds of ethical theories, for the fair distribution of social goods. The main fulcrum of the theory rests on the idea that rational individuals will determine the principles of justice by taking care of the worst off behind the veil of ignorance, where they are uninformed about their personal properties. Rawls puts forth the probability of being in the worst off group urges the rational ignorant individuals to decide in favor of the worst off group of the society. Albeit the theory of justice is comprehensive, it leaves out health and social determinants of health. Thus few approaches to enhance the theory and include health services as well are emerged. In this paper we discussed two most well-known these approaches; adding health to the list of primary social goods, and the normal function approach by Norman Daniels.

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## References

1. Rawls J. *A Theory of Justice*. Original ed. Cambridge: The Belknap Press; 2005: 60-142.
2. Daniels N. *Just Health*. 1st ed. Cambridge: Cambridge University Press; 2009: 11-140.
3. Coogan EH. *Rawls and Health Care*. Honors Theses; 2007: paper 501.
4. Rawls J, Fried C, Sen A, Schelling TC. *Liberty, Equality, and Law*, 1st ed. Cambridge: Cambridge University Press; 1987.
5. Munson R. *Intervention and Reflection. Basic Issues in Bioethics*. 9th ed. Boston: Cengage Learning; 2012: 863-875.
6. O'Brian WE. Equality in Law and Philosophy. *An Interdisciplinary Journal of Philosophy* 2010; 53, 3.
7. Sandel MJ. *Justice: What's the Right Thing to Do?* 1st ed. London: Penguin Books; 2009: 184-208.

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