



UPPSALA
UNIVERSITET

Just Health Care?

VI Annual Swedish Symposium on Biomedicine, Ethics and Society

Sandhamn Hotell & Konferens, May 24-25, 2004

Mohsen Al Attar Ahmed

Faculty of Law, Stockholm University

c/o Ulla Ribbenholt, Renstiernas Gata 30, 11631 Stockholm

E-mail: mohsen.ahmed@alumni.utexas.net

The Human Right to Health

From an administrative perspective, it is possible to imagine a series of guiding principles governing the 'just' allocation of health care resources. However, from a legal point of view, such an exercise must be preceded by a sensible resolution of the decisive (and divisive) philosophical-legal issue: viz. is a state compelled, either legally or morally, to provide health care to its population, and if so, which law governs and how is the obligation to be enforced?

It has been argued, effectively in my opinion, that every person has a *human right* to the highest attainable standard of physical and mental health. Legal support for the health care as human right perspective is framed in human rights law, specifically articles 7, 11, 12 of the CESCR¹ and article 24 of the CRC,² to name but two.

For my presentation, I propose to address via an interpretative approach the continuing classification problems arising from the relevant passages and the discourse engulfing them; i.e. is the right to health care an economic, social, or moral right? How do these categories differ and does a state's duty vary accordingly? Indeed, and to pose the central question, can the theory of health care as human right translate into a set of normative solutions steering a state's exercise in priority setting and the allocation of health care resources? Answers to these questions are vital in addressing the idea and design of a just health care system. For example, if seen as an economic right, perhaps the equitable budgetary distribution of financial resources will suffice in fulfilling a state's obligation, while a moral interpretation might carry the burden of a relativist analysis of the needs of the individual so as to achieve equal dignity above equal treatment.

¹ The International Covenant on Economic, Social, and Cultural Rights

² The Convention on the Rights of the Child