

The Problem of Realizing for Right to Health in Context of Social Justice Theories

Hüseyin Ari^{1*}, Farshad Ganji²

¹ *Corresponding Author, Business-Accounting and Finance Ph.D. The student in the Institute of Social Sciences of Istanbul Arel University, Istanbul, Turkey.

² Co-author, Business-Accounting and Finance Ph.D. The student in the Institute of Social Sciences of Istanbul Arel University, Istanbul, Turkey.

*Corresponding Author:

E-mail: huseyinari0992@gmail.com ,farshadganji69@yahoo.com.

ABSTRACT

This article includes theoretical discussions related exercising of the right to health in context of social justice conceptions. The main research issue is to present new perspectives by scrutinizing past experiences in order to how to realize right to health fairly in terms of economic and social. In this regard, Egalitarian, Liberal, Utilitarian and Communitarian Justice Understandings was synthesized with the right to health. The results of the synthesis was interpreted in context of delivering and financing of health services. Health system based on public is demanded because healthcare services are accepted as social right. However, there are some problems for fulfillment of responsibilities concerning healthcare services. The top of these problems is that cost of healthcare services for governments have been rising and social justice perception have been bruised. Developed new approach of this article is to reveal the opinion that the right to health and the right for benefiting from healthcare services may be different concepts.

Keywords

The Right to Health, Egalitarian Justice, Liberal Justice, Utilitarian Justice, Communitarian Justice

Introduction

Health and being health are expected sole desire for societies. Health life is element of decreasing risks relating serious diseases and premature death. Chronic diseases like cardiovascular diseases, cancers and diabetes creates mortality and morbidity burdens and these diseases could be prevented or be treated before getting worse for prosperity of a society.

Well-being is condition with benefiting from healthcare services. Therefore, in today's when rates of mortality have been decreasing and rates of morbidity have been increasing, focus of the right to health converts to right to healthcare service emotionally (Kumar, 2015). Such that, it is asserted that responsibilities of healthcare service are constitutional and public sphere (Demir, 2011).

Financing is as important issue as providing healthcare services in health system. Healthcare services are expensive due to both beneficiary and its typical structure. While problems stemming from beneficiary as longevity of life and adverse health behaviors (smoking, drinking alcohol, insecure sexuality etc.) makes healthcare services more expensive, problems stemming from healthcare service's structure like development of health technologies, incorrect drug prescribing, unnecessary radiologic or laboratory examination orders based on supply derivation and high administration costs multiplies this expensiveness (Mack, 2016).

Perceptions that healthcare services are governmental responsibility on the basis of the right to health may cause serious contradictions especially on financing these services by capital budget of the state. Financing of healthcare services by taxes as only public source can fail (Sheiman,

2013). Because, operational budget of state is spent for salaries of civil servants and transfer expenditures and tax revenue is not enough for healthcare services (WHO, 2017). In addition, expressions that civil servants pay tax in reel don't reflect the truth. Because, accounting of a part of gross salary paid to civil servant from state budget as tax expenses for him/her do not increase state's revenues in reel.

Financing healthcare services in Social Security System, which state also contribute, is similar to financing by state budget through taxes. Because there are people who have paid their premiums to social insurance system in Turkey. One of the typical evidence for this is that 40 billion Turkish Lira debt was shared among these people (Sayıştay, 2017). Besides these problems based on tax or social security financing system, citizens make pressure on governments due to the fact that right to health is understood wrongly. Specially, in constitutional texts emphasis of "social state" legitimate this perspective (TBMM, 1982). In this regard, any evaluation about both health as a social right and benefiting from healthcare services need to probe right and justice concepts.

1 Republic of Turkey is a democratic, laic and **social law state** which, is in national solidarity and sense of justice, depends on Atatürk nationalism, and is based upon fundamental principles expressed initially.

2 <http://www.muharrembalci.com/yayinlar/tebligler/6.pdf>, Accessed Date: 29.08.2018

3 <http://www.businessdictionary.com/definition/right.html>, Accessed Date: 29.08.2018

Right, Human Right and Social Rights :

Right have been defined in various way that it is impossible to agree on any definition about it. However, it is possible to

detect common points through a number of definitions. Right means principal one, correct one or proprietary on a thing in lexical meaning². In other words, right means justified, recognized, protected and claim on, or interest in specific tangible or intangible property based on any liberty or any license³. According to these approaches, right can be expressed as all manner of legal share or privilege through congenital or in exchange for any price (money, effort, struggle, success etc.). Hence, right is acquired through sometimes ontological reasons and sometimes being took on individual costs.

Human rights also very important concepts because right have relation with human beings directly and primary In this regard, human rights belongs to everybody and are essential rights and freedoms which contains shared honor, justice and integrity notions (Hunt, 2017). Human rights are considered as a right complex derived from human beings' nature, which are not granted by any authority or government (Hausermann, 1992). As a result of Nazi Germany's oppression in 2. World War, United Nations (UN) required to present a frame that explains human rights' content and principles and that also enforces countries to act in this way via Universal Declaration of Human Rights in 10 December 1948. This declaration have been broken down into civil-political rights and economic-social rights (Eide, 200). Thus, human rights involve economic, social and cultural rights that contends necessities like adequate food, housing, dignified life etc. (Hausermann, 1992).

In context of human rights, there is a strong relation between social rights and economic rights. Economic dimension of social right represent a situation to realize life compatible with human dignity in the means of financially. Rights to working, housing, fair wages, social security, education, adequate nutrition comes up when examined social rights (Eide et all. 2001). In this regard, it is impossible to fulfill social right's necessities without financial resources (Elson et all. 2013)

Ways of Realizing Social Rights :

Prioritization issue for human rights vary depends on social context. While, justice is established through economic and social rights in collectivist society, in West societies civil and political rights have more importance as if ignoring economic and social rights (Eide, 200). However, West societies had some attempts for realizing economic and social rights in scope of welfare state.

While economic and social benefits are expected to be created by the market as a result of the government actively or passively promoting the market in the *liberal welfare state*, it is foreseen that the state itself will be put into operation if the commodity and the market fail to provide prosperity, as well as the interests of the private sector and tradesmen chambers in the *corporatist (jointly) welfare state* (Espin-Andersen, 1990).

As another form of welfare state, the state economy based on a classless society is targeted in the social democratic welfare state, in which the market economy is out of doors and aimed at meeting social and economic expectations rather than meeting the minimum needs (Espin-Andersen, 1990). In this regard, the welfare state regime closest to the collectivist society should be considered to be a social democratic state.

On behalf of the social democratic welfare state, it is critical to produce and deliver services at the level of expectations rather than minimum requirements for its citizens. Especially when it comes to economic and social rights, it can be easily foreseen that it is really difficult to draw any boundaries and financial sustainability will also be endangered. Moreover, this situation creates financial burden on capital budget of state with continuousness of social justice (Elson et.all, 2013). The incredible collapse of the health system is a striking example in the Soviet Union, where health services are offered and financed in compliance with the perspective that health services are social right (Sheiman, 2013).

Rights and Social Justice Concepts :

The need of drawing a boundary of the social right is essential in terms of damaging social justice in addition to financial contradictions created by it. In addition to the financial contradictions created by drawing the boundary of the social right, it is also essential in terms of damaging social justice. It is possible to distinguish between deservers and those who do not deserve in course of the fulfillment of social rights in case of that the perception of social justice can be settled in social perceptions in a healthy way.

Social justice emerges as a concept related to the realization of the fair in society. In this regard, creation of justice perception requires a lot of social regulations (Powers, 2014). Social regulations also points to *Social Contract* of Jean-Jacques Rousseau. The social contract consists of individual individuals' willing to live together as a union that arises from the need to defend against attacks or external disasters alone, and that they will be linked to some rules for sustainability of society and protection of damaging each other's (Rousseau, 2016). The focus of the contract lies justice as a social virtue (Rawls, 1971). In this context, discussing the understanding of justice from the perspective of distributive justice will be able to offer solutions to the problem of whether health service is a social right or how it should be placed in a framework. In this frame, Egalitarian, Liberal, Utilitarian and Communitarianism social justice theories (Giovanola, 2015) will be discussed.

Egalitarian Justice :

Justice Understanding of Rawls :

Rawls focuses on individual-oriented justice understanding for conceptualizing of his social justice perception. The individual-oriented understanding of justice is based on the fact that, for whatever reason, the rights of the individual are untouchable, bargaining cannot be made and even if social interests are concerned, individual rights must be protected. In this regard, injustice situation can be tolerated if and only if that greater individual right would be violated or more social and economic acquisitions would be present (Rawls, 1971).

Rawls, by aware of ontological justifications of living together in as society, explains social justice as that individual rights and its duties or responsibilities in a society are concrete. In other words, social justice is that social coexistence's burdens and benefits are distributed to individuals properly (Rawls, 1971). Rawls also construct his justice understanding on fundamental principles named *fairness* and addressing to generate common living rules of a

society. Because, while individual makes decisions rationally for self-good, society also have

to make decision for which one is fair or not for its self-good (Rawls, 1971). According to Rawls, these principles are determined at the ground that both side are not fully conscious and, because of it, that which side have advantage or have disadvantage is not clear; in other words, as a results of deals and negotiations that are open for everybody in society (Rawls, 1971).

Social rules specified by preferences is legalized as a contract. In particular, these include what each individual in the community can do or cannot do, and ways of prevent and punish in case of any violation. In this regard, these rules have to be governed in order to practice (Rawls, 1971). This situation requires a state in order to prevent individuals in the community an outrage upon justice as Hobbes expressed (Reisch, 2002).

Rawls presents two fundamental principles (Rawls, 1971):

a. Having fundamental freedoms (*right to speak, thought and political freedom, freedom of religion and conscience, right to property, right not to be arrested arbitrarily*) for everyone as wide as possible

b. Social and economic inequalities have to be regulated for everybody in society and equality of opportunity have to be ensured for any position in society.

From the perspective of Rawls, welfare and income need not be distributed equally to overcome social and economic inequalities. It is enough to create equality of opportunity only in terms of power, income or access to certain positions. To ensure equality of opportunity is possible by establishing *perfect procedural justice*. In other words, the rules, procedures and practices applied in social status changes (increase or decrease) require to be open, transparent and objective (Rawls, 1971).

It can thought that, from viewpoint of Rawls liberalism, envisages to resolve settled social inequalities by creating equality of opportunity. Besides Rawls do not believe not only collectivism both also pure market capitalism (*laissez-faire capitalism*). Because, first one violates **a**, second one violates **b** due to cause to concentrate the welfare on minority of community (Duignan, 2018). Thus, Rawls cracks the door open for redistribution of resources on behalf of the disadvantages (Salahuddin, 2018). In particular, Rawls' "*principle of difference*" envisages to make an assessment over the most disadvantaged individual in the social structure before any regulation is realized and to determine the fair resource allocation by comparing them in the alternatives as a result of this evaluation (Olsen, 1997).

It can thought perspective of Rawls believes that fundamental rights and freedoms can perform social rights by their potentiality. Because, he believed a democratic social structure that everybody has ownership on production factors (*not from collectivist perspective*) (Duignan, 2018.). This sociological view is a structure that numbers of workers and civil servant is low, but that everybody have a control over production factors via corporations and cooperatives to the extent of their economic strength, and that trusts, cartels and monopolistic economic organizations

are absent, and finally that state protect freedoms, property and peace (Von Mises, 2016).

Liberal Justice :

Justice Understanding of Nozick :

Nozick who had liberal understanding consider minimal state is a maximal state form that can be legitimated. In this regard, state has a duty to protect their citizens from theft, fraud, violence or contract violations rather than realizing social rights for them (Nozick, 1974). In Nozick's understanding of justice, also known as the *Entitlement Theory*, in order for the assets/ economic values held by a person to be fair or justified, it must comply with the principles of acquisition of ownership, transfer of ownership and correction of injustice (Nozick, 1974).

Nozick approaches to principle of acquisition of ownership from perspective of John Lock (Salahuddin, 2018). According to Lock, acquisition of ownership is accepted to suitable for justice if an individual uses his labor for acquisition and leaves areas where others can also benefit from the economic assets 4.

4 <http://www.constitution.org/jl/2ndtr05.htm>, Accessed Date: 01.09.2018

Another concept of Nozick's justice understanding is issue of transfer of ownership. In this context, if acquisition of ownership is just, any economic asset could be transferred to another one freely. However, most important point in this principle is to necessity to obtain the asset used by the buyer in accordance with the principle of ownership acquisition (Rentmeester, 2014).

Nozick's understanding of justice is undoubtedly knotted in the concept of distributive justice. According to him, in order for the state to introduce a redistribution mechanism to correct injustice, there must be an inequality that arises directly from the principles of acquisition and transfer of property (Rentmeester, 2014). Therefore, it is brought to the agenda that redistribution may be the case for the elimination of the injustices in historical property acquisition. Because, according to him, what is fair is everything that results from the result of what was fair before (Nozick, 1973). From this perspective, it can be thought that he set against state interventions for inequalities arising individual vulnerability or due to not fulfilling responsibilities.

The legitimacy of distributive justice is valid if individuals deserve what they have when it comes to redistribution. Nozick's understanding of justice differs from Rawls' understanding of justice in this respect. Unlike Nozick Rawls, it opposes ultimately the ultimate resource allocation to achieve equality and claims that this constitutes a violation of property rights (Nayak, 1989). For this reason, it strongly rejects the government's preference of the taxation way to ensure social justice (Salahuddin, 2018). According to Nozick justice understanding, redistribution is necessary and legal only if inequality is structural problem, in other words if it is not suitable for Nozick's Entitlement Theory.

In this regard, Liberal-Egalitarian approach (for both Rawls and Nozick) is directly opposite of Utilitarian approach (Kilcullen, 1996).

Utilitarian Justice :**Justice Understanding of Bentham :**

Jeremy Bentham was impressed by utilitarian point of view due to the fact that he was student of David Hume and was philosopher identified with utilitarian justice understanding. Bentham does not believe in social contract doctrine just like Hume (Rosen, 2003). Unlike Hume, Bentham emphasizes rationalism as an intermediary of building a social structure to create more happiness in society (Rosen, 2003). In this sense, the results of what is rational could be cause to contradictions in context of creating happiness (Schroth, 2008). Thus, Bentham predicts that it would be possible to satisfy the desires and tastes in a way that increases individual happiness by taking advantage of the society. In this context, utilitarianism starts to gain a social/collective dimension from individuality.

General well-being that ensures happiness on the social ground is thing that providing of most benefit which could be created in society for biggest part of it (Subramanian, 2017). Thus, there is a limit of maximizing the benefit. In this situation, any relative advantages or disadvantages between the parties would be ignored and it will be necessary to transfer resources to fractions that would provide the highest benefit from the asset (Stein, 2006).

There are some opinions that just approaches shaping by utilitarian ground is not applicable. According to these opinions, what is just should has moral features in context of distributive justice. For that reason alone, if what is expressed as a state of goodness maximized for the benefit of the society requires itself to be encouraged by morality, it is also proof that it is essentially unmoral and therefore unfair (Schroth, 2008). Besides, utilitarian point, which assert there is no natural rights that are indispensable, non-transferable and arises only from being human (Smith, 2012), due to not having pioneer/fundamental principles and is devoid of a root, is not justice like moral (Schroth, 2008).

It can be accepted that the justice approach of the utilitarianism approach is quite appropriate in the framework of logic, but it is also problematic. For example, what will be the main criterion that legitimizes resource transfer to those who will provide the highest benefit? To be educated, to be virtuous, to be talented, to be rich, to be populist? These questions can be reproduced, but perhaps a contradiction in which the utilitarian approach fell into itself would be appropriate. As seen in the criticisms brought to the utilitarian justice approach, both defending the absence of natural rights and that there is no a clear distribution criterion that would provide the highest benefit create a serious gap.

When the understanding of justice is examined from the perspective of social utilitarianism, a similar situation is noticeable. Legitimacy of the system that ensures happiness of majority in society, but cause to unhappiness of minority is contradictive. Then, what is debated is why happy ones and unhappy ones deserves to fall into current social position. For this reason, who will include in majority in the society that ensure highest welfare? To be more precise, how is understood that these people would create highest benefit for society. In addition, is it possible that individuals behave ascetically every time? Or what kind of burdens did the vast majority endure unlike the minority for this

privilege? These and similar questions always keep the utilitarian justice approach controversial.

Communitarian Justice :

Communitarianism, although it appreciated in way of worker solidarity in the middle of 19.yy, is an ideology that is based on Torah, Bible and Catholic Church and that targets social interest rather than individual (Etzioni, 2010). Communitarianism brings individual into the forefront as social being by considering that human being is not only person, but need to belong to a family and society. For this reason, it is target to consolidation of social structure rather than allowing individuals to live autonomy freedoms (Bell, 2016). In addition, this approach developed an understanding that society has precedence over individual and it would contribute to enrich the individual by means of consolidating social bonds (Etzioni, 2010). Communitarian approach accepts the society are uniform and monolith. However, Karl Marx asserted a new approach that is different and has dilemmas. For him, there was subgroups in society. This points out, unlike "public", an existence of community controlled by some pressure groups in parallel to the development of class consciousness (Etzioni, 1996).

Communitarian justice understanding has a claim that there is no any motivation of individuals for "principle of difference" that make an assessment over the most disadvantaged individual in the social structure for fair resource allocation (Pélabay, 2017). From this perspective, justice would not depend on individuals' life plan, would be structured in way to benefit of society. For this reason, society must have integrity shaped by its institutions in an understanding shared (Sandel, 1998). In this regard, the state is regarded as the highest institution that guarantees equal rights and benefits for everyone in the community (Pélabay, 2017). Thus, in a classless understanding of society, state would be accepted to have duty that treats its citizens absolutely equally. In this context of this situation, communitarianism should be regarded as a statist collectivism.

New communitarianism movement was born because of major depravities and injustices in the geographies where classic communitarianism was applied (McNutt, 1997). Common side of new communitarianism with classic communitarianism are to being reduced of personal wealth and interests for benefit of society (Etzioni, 1993). The newness brought by the new communitarianism is that individual rights and responsibilities are equal (McNutt, 1997). This phenomenon, which is explained as that right and responsibilities are mutual, is system that individual has a separate freedom from society but, society has also separate a public property territory from each individual creating society. In this regard, it is demanded that each individual have to fulfill responsibilities for society without waiving their selfness and personality rights (Etzioni, 1993). The most important point that must be understood is to that there is no uniform society and polarized society structure based on class conflicts as Marx pointed out. New communitarianism perhaps more rationally delaminated the society into sub-society groups (communities). From this perspective, belonging to a community rather than state citizenship comes to the fore in new communitarianism (Wagner et. all, 1997). In addition, it is not also assumed

that there is class conflict between different communities based on cultural, religion

Society and community terms have different meanings. While society refers to public containing citizenship bond, community refers to sub-society groups rising from cultural unity and having common interests and expectations without citizenship bond or customary difference. Within the framework of all these separations, it can be said that new communitarianism reminds of Rawls's egalitarian justice.

Investigation of Social Justice Theories in the Context of the Right to Health

Right to health, as stated before, is perceived as a dimension of human rights. In this regard, right to health is a concept that contains guaranteeing to make adequate food, clear environment, healthy working conditions and benefiting from medical services (treatment, care, rehabilitations, medicine etc.) accessible in maximum (NESRI, 2019; Ghebreyesus, 2017). Thus, it comes to the forefront that right to health and right to healthcare services are same concepts. It is at this point that the right to health and the right to health services (in a narrower sense to benefit from medical services) must be separated. In order to be comprehended that the right to health and the right to health services are not same notions, it is necessary to specify whether healthcare services are public good or not.

Public goods and services are non-excludable and noncompeting goods. In this regard, those who benefits from healthcare services should not exclude to others under no circumstances and should not compete with others due to scarcity of resources. However, it is not valid for healthcare services in reality. In circumstances that healthcare services is provided and financed by state, although it is possible to prevent exclusions due to pricing, competition among users always would actual because of scarcity of resources and therefore healthcare services are semi-public good (Jason, 2018). Yet, even though state provides healthcare services for free, since it does not mean to not cost for the state, it would be burden for taxpayer.

Being accepted healthcare services as public good would be create free rider problem. Free rider problem is a situation that individuals consume more than their share or they pay less than what must be paid per capita for bearing resource costs (Kenton, 2012). Therefore, it is arguable whether that benefiting of healthcare services of those who do not pay 76, 75 TL, which is minimum General Healthcare Insurance (GHI) premium, but who allocate a share from their budget for reinforcing of negative health behaviors is justice or not. Thus, according to Friedman, it is asserted that costless every goods and services subsidized by public fund would cause extravagance of state resources because of increasing demand and it would cause those who have really in need of healthcare services and ready for pay its cost to cannot access these goods and services (Ataay, 2016). When looked from liberal perspective, whether it be Rawls or Nozick's understanding of social justice, based on the principle that the state should free individual rights and freedoms, it is likely to reflect for these people as *"the individual was used her budget for other needs in frame of his/her priorities instead of allocating a share for need of healthcare services, thus she abstained from exercising her right to health, it must be respected."* It could be two exceptions of this approach according to Rawls. While first one is principle of

equal opportunity and second one is principle of difference that requires to an evaluation in context of most disadvantaged individual. For example, when examined the necessity of receiving healthcare services for an abnormal baby and individuals with low-income, while there is a possibility to serve certain part of these services or totally by the state in aid of abnormal baby in context of principle of equal opportunity, the responsibility taken by the state would be fair in compliance with principle of difference for individuals with low-income. Thus, by force of social state, serving healthcare for free and exemptions granted in paying insurance premium by state are examples encountered in practice. However, it is also clear the needfulness that these applications should be cramped and should not misused.

When examined the present approach in context of Nozick's mentality, any intervention by means of redistribution by state would means to violation of liberal right and under any circumstances whatsoever, there is no something by the state to do for the disadvantaged groups. However, it is possible that someone may aid to individuals who are not accessing to healthcare services because of individual irresponsibility or ontological reasons in terms of Nozick (Nayak, 1989). As a result, for Nozick, the individual realizing acquisition of property fairly could also let others use it to the extent permitted by him/her.

For utilitarian justice perspective, because there can not be human right inferred from theory of ontological natural rights and accordingly right to health, this approach can be displayed: "because possible expected utility stemmed from healthcare services to compensate negative health behavior is lower than others and not to wasting of scarce public source, providing healthcare services for someone is not suitable when necessity of looking out of maximization of benefit is understood. Utilitarian justice understanding alienates these people from society and this is accepted as fair. However, main problem is that this approach, which calls attention to lack of moral sensitivity, is also applicated for ones who have congenital health disorders.

According to classic communitarian justice understanding, because it has strict equalitarian under any circumstances whatsoever, this approach can be displayed: "by force of right to health, the state has to provide healthcare services for someone in need". However, in practice these services would be protective than curative, because when scarcity of source and the principle of providing healthcare service equally is merged, quantity and quality of healthcare services would decline. As also seen in Soviet Union, which was governed consonant with classic communitarian justice mentality, provided services was focused on inexpensive protective healthcare services and center of them consisted of polyclinics (Friedenberg, 1987). However, prevalence of environmental health, negative health behaviors (cigarettes, alcohol etc.) and malnutrition (Friedenberg, 1987) makes these protective services controversial in terms of effectiveness. Moreover, in Soviet Union lagged the USA in some indicators like life expectancy, baby mortality rate though health expenditures of Soviet Union were low than USA and healthcare staff number was more than USA (Rowland and Telyukov, 1991). Because of these reasons, classic communitarian justice understanding seems to fail to provide healthcare services by state unconditionally.

New communitarianism understanding considers that community consisting of individuals who were affected from negative externalities are smaller group than public. As a result of the mentality could adopt this approach: "by force of shared life community promises healthcare services to one who in need providing that some terms". Although new communitarianism does not have certain punishment tools, it has justice understanding repressing risky behaviors and has rehabilitating light sentence set. (Etzioni and George, 1999; Burke, 2015). The fact that social norms like equilibrium of right and liability in any community would enforce individuals to obey is fundamental of this approach (Etzioni and George, 1999). Although not expressed certainly, being provided free and unconditional healthcare services based of notion right to health due to not discharging the responsibility towards community is not likely (Etzioni and George, 1999). In this frame, being abstained from negative health behaviors as alcohol, cigarette, using drugs, irregular sleep, unhealthy nutrition, inadequate physical activity in maximum would be one of the social norms imposed by community to each member. However, cultural background and customs of the community also would be determinant on if healthcare services is provided or not for different conditions.

Result :

When examined distributive justice perspective, it is gripped that the concept of right to health could not be exercised unconditionally in context of benefitting from healthcare services and these services could not be sustained with taxes collected for public interest. However, outpatient services for both protection and treatment may be paid by taxes so that not facing with same picture such in Soviet Union. The importance of this proposal has been comprehending nowadays in Covid-19 pandemic disease. However, everybody has freedom to display healthy or unhealthy behaviors in context of self-determination. In this regard, any state or community cannot enforce to canalize someone to desired health behaviors. For this reason, right to health must not be perceived as providing healthcare services unconditionally, must be perceived as not banning someone arbitrarily from accessing healthcare services providing that fulfilling specific health obligations like healthy diet, regular sleeping, regular payment for insurance premium. Analogically, "everybody has right to get a driver's license, but providing that reaching majority and bearing money, time and exertion barriers"

It is known reality that there is the disadvantage in accessing healthcare services. In this regard, Rawls' *principle of difference* expresses the necessity to subsidy for these people. However, free-rider problem has been relapsing, which health system has been exploited by one who has not any disadvantage in accessing healthcare services. For this reason, if any state would provide healthcare services financed by treasure for the disadvantaged, this initiative should not burden explicit or implicit additional cost to ones who fulfills their responsibilities and should ensure to get the disadvantaged to change unhealthy behaviors definitively and overseen. Otherwise, duty loses and government transfer payments stemmed from free-rider

problem would cause to become health system questionable in terms of justice.

References

1. Ataay, C. K. (2016). Hayek ve Friedman'ın Devlet Anlayışı. *Siyasal Bilimler Dergisi*, 4(1), 129-151.
2. Bell, D. (2016). "Communitarianism", *The Stanford Encyclopedia of Philosophy* (Summer 2016 Edition), Edward N. Zalta (ed.), <https://plato.stanford.edu/archives/sum2016/entries/communitarianism/>; Erişim Tarihi: 12.02.2019
3. Burke, H. R. (2015). Re-considering Youth Justice in the context of Radical Moral Communitarianism. *Howard League What is Justice? Working Papers* 16/2015. Nottingham Trent University, https://howardleague.org/wp-content/uploads/2016/04/HLWP_16_2015.pdf, Erişim Tarihi: 13.02.2019
4. Demir, B. (2011). Sağlık Hizmetlerinin Özel Sektör Tarafından Yürütülmesi (Yüksek Lisans Tezi). Sosyal Bilimler Enstitüsü. Kamu Hukuku Anabilim Dalı. Ankara Üniversitesi
5. Duignan, B. (2018). John Bordley Rawls. *Encyclopædia Britannica, Inc.* <https://www.britannica.com/biography/John-Rawls>, Erişim Tarihi: 01.09.2018
6. Eide, A. (2000). *Economic and Social Rights*. <http://www.corteidh.or.cr/tablas/r28245.pdf>, Erişim Tarihi: 31.08.2018
7. Eide, A., Krause, C., & Rosas, A. (Eds.). (2001). *Economic, Social, and Cultural Rights: A Textbook*. Kluwer Law International, ISBN: 90-411-1595-1
8. Elson, D., Balakrishnan, R., & Heintz, J. (2013). Public finance, maximum available resources and human rights. *Human Rights and Public Finance: Budgets and the Promotion of Economic and Social Rights*, 13, 15.
9. Esping-Andersen, G. (1990). *The three worlds of welfare capitalism*. Polity Press. ISBN 0-7456-0796-9.
10. Etzioni, A. (1993). *The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda*. Crown Publisher, Inc./New York. ISBN: 0-517-59277-0, s.255, 259
11. Etzioni, A. (1996). *The Responsive Community: A Communitarian Perspective*. *American Sociological Review*, 1-11.
12. Etzioni, A. (2010). *Communitarianism*. In *International Encyclopedia of Civil Society* (pp. 521-524). Springer, New York, NY.
13. Etzioni, A., & George, R. P. (1999). *Virtue and The State: A Dialogue between A Communitarian and a Social Conservative*. *Responsive Community*, 9, 54-66.
14. *First Treatise of Civil Government. The Second Treatise of Civil Government (1690) by John Locke*, <http://www.constitution.org/jl/2ndtr05.htm>, Erişim Tarihi: 01.09.2018
15. Friedenber D. S. (1987). *Soviet Health Care System*. *The Western Journal of Medicine*, 147(2), 214-217.
16. Ghebreyesus, A. T. (2017). *Health is a Fundamental Human Right*. *Human Rights Day 2017*, WHO Media Center,

- <https://www.who.int/mediacentre/news/statements/fundamental-human-right/en/>, Erişim Tarihi: 13.02.2019
17. Giovanola, B. (2015). Globalization and Theories of Justice. University of Macerata Department of Political Science, Communication and International Relations A.A. 2015-16
 18. Hausermann, J. (1992). The Realisation and Implementation of Economic, Social and Cultural Rights in (Eds) Beddard, R. And Hill, D.M. Economic, Social And Cultural Rights.. London; Macmillan.
 19. Her Türlü “Son” İçin Gerekli “Hukuk Formasyonu” <http://www.muhammedbalci.com/yayinlar/tebligler/6.pdf>, Erişim Tarihi: 29.08.2018.
 20. Hunt, P. H. M. (2017). Social Rights Are Human Rights-But The UK System Is Rigged. <https://www.centreforwelfarereform.org/uploads/attachment/584/socialrights-are-human-rights.pdf>, Erişim Tarihi: 31.08.2018
 21. Jason, W. (2018). Why is Healthcare not a Public Good in Economics?, <https://www.mytutor.co.uk/answers/17315/IB/Economics/Why-is-healthcare-not-a-public-good-in-economics/>, Erişim Tarihi: 13.02.2019
 22. Kenton, W. (2018). Free Rider Problem. Investopedia, https://www.investopedia.com/terms/f/free_rider_problem.asp, Erişim Tarihi: 13.02.2019
 23. Kilcullen, J. R. (1996). Robert Nozick: Against Distributive Justice. Macquarie University
 24. Kumar, R. (2015). Right To Health: Challenges And Opportunities. Indian Journal of Community Medicine: Official Publication of Indian Association of Preventive & Social Medicine, 40(4), 218.
 25. Mack, M. (2016). What Drives Rising Health-Care Costs. Government Finance Review, 32(4), 26-32.
 26. McNutt, J. (1997). New Communitarian Thought and The Future of Social Policy. J. Soc. & Soc. Welfare, 24, 45.
 27. National Economic & Social Right Initiative (NESRI). (2019). What is the Human Right to Health and Health Care?, <https://www.nesri.org/programs/what-is-the-humanright-to-health-and-health-care>, Erişim Tarihi: 13.02.2019
 28. Nayak, P. B. (1989). Nozick's Entitlement Theory and Distributive Justice. Economic and Political Weekly, PE2-PE8.
 29. Nozick, R. (1973). Distributive Justice. Philosophy & Public Affairs, Wiley, Vol. 3, No. 1, https://www.jstor.org/stable/pdf/2264891.pdf?refreqid=excelsior%3Aef601abad0290e_c95e69325f2748c433, Erişim Tarihi: 31.01.2019
 30. Nozick, R. (1974). Anarchy, State, and Utopia. New York Basic Book. ISBN: 0-63119780-X
 31. Olsen, J. A. (1997). Theories of Justice and Their Implications for Priority Setting in Health Care. Journal of Health Economics, 16(6), 625-639.
 32. Pélabay, J. (2017). Communitarian Equality: to Each According to Their Contribution to The Group Identity. International Social Science Journal, 67(223-224), 21-30.
 33. POL264 Modern Political Theory, <http://www5.csudh.edu/dearhabermas/nozick01bk.html>, Erişim Tarihi: 31.01.2019
 34. Powers M. (2014). Social Justice. Bioethics. Ed. Bruce Jennings. Vol. 6. 4th ed. Farmington Hills, MI: Macmillan Reference USA. p2966-2973. https://www.fewresources.org/uploads/1/0/5/2/10529860/powers_social_justice.pdf, Erişim Tarihi: 01.09.2018
 35. Rawls, J. (1971). A Theory Of Justice Oxford University Press. New York.
 36. Reisch, M. (2002). Defining Social Justice in a Socially Unjust World. Families in Society, 83(4), 343-354.
 37. Rentmeester, C. (2014). 3. The Need for Basic Rights: A Critique of Nozick's Entitlement Theory. SOCRATES: An International, Multi-lingual, Multi-disciplinary, Refereed (peer-reviewed), Indexed Scholarly journal, 2(3), 18-26.
 38. Rosen, F. (2003). Classical Utilitarianism from Hume to Mill. Routledge, ISBN: 0203-98735-7, s. 49, 50
 39. Rousseau, J. J. (2016). Toplum Sözleşmesi ya da Siyaset Hukuku İlkeleri (Çev. İsmail Yergüz). Say Yayınları. ISBN: 9789754687330
 40. Rowland, D., & Telyukov, A. V. (1991). Soviet Health Care from Two Perspectives. Health Affairs, 10(3), 71-86.
 41. Salahuddin, A (2018) Robert Nozick's Entitlement Theory of Justice, Libertarian Rights and the Minimal State: A Critical Evaluation. J Civil Legal Sci 7: 234. doi: 10.4172/2169-0170.1000234.
 42. Sandel, J. M. (1988). Liberalism and the Limits of Justice (2nd. Edition). Cambridge University Press. ISBN: 0-521-56298-8., s173.
 43. Schroth, J. (2008). Distributive justice and welfarism in utilitarianism. Inquiry, 51(2), 123-146.
 44. Sheiman, I. (2013). Rocky road from the Semashko to a new health model. Interview by Fiona Fleck. <http://www.who.int/bulletin/volumes/91/5/13-030513.pdf>, Erişim Tarihi: 31.08.2018
 45. Shestack, J. J. (2006). İnsan Haklarının Felsefi Temelleri. Liberal Düşünce Dergisi <http://www.libertedownload.com/LD/arsiv/43/06-shestack-insan-haklarinin-felsefi-temelleri.pdf>, Erişim Tarihi: 29.08.2018
 46. Smith, H. G. (2012). Jeremy Bentham's Attack on Natural Rights. Libertarianism.org, <https://www.libertarianism.org/publications/essays/excursions/jeremy-benthamsattack-natural-rights>, Erişim Tarihi: 12.02.2019
 47. Stein, M. S. (2006). Distributive justice and disability: Utilitarianism against egalitarianism. Yale University Press. ISBN: 978-0-300-10057-0, s.34-35
 48. Subramanian, S. (2017). Distributive Justice and Utilitarianism. Live Mint. <https://www.livemint.com/Opinion/aqBty1uUxT5EuzMbLyMl3l/Distributive-justiceand-utilitarianism.html>, Erişim Tarihi:12.02.2019
 49. T.C. Sayıştaş Başkanlığı. (2017). Sosyal Güvenlik Kurumu 2016 yılı Sayıştay Denetim Raporu, [https://www.sayistay.gov.tr/tr/Upload/62643830/files/raporlar/kid/2016/Sosyal_G%C3%BCvenlik_Kurumlar%C4%B1/SOSYAL%20G%C3%9Cvenlik_Kurumlar%20KURUMU.pdf](https://www.sayistay.gov.tr/tr/Upload/62643830/files/raporlar/kid/2016/Sosyal_G%C3%BCvenlik_Kurumlar%C4%B1/SOSYAL%20G%C3%9Cvenlik_Kurumlar%C4%B1/SOSYAL%20G%C3%9Cvenlik_Kurumlar%20KURUMU.pdf), Accessed Date: 19.07.2018

50. Türkiye Büyük Millet Meclisi (TBMM) (1982). 1982 Türkiye Cumhuriyeti Anayasası/md. 2, <https://www.tbmm.gov.tr/anayasa/anayasa82.htm>, Erişim Tarihi: 29.08.2018
51. Von Mises, L. (2016). Liberalizm (Çev: Yaman Öğüt). Liber Plus
52. Yayınları. ISBN:978-605-83324-0-9
53. Wagner, A., Bauer, R., Van Til, J., & Ranci, C. (1997). Joint review of Amitai Etzioni (ed.)" New Communitarian Thinking: Persons, Virtues, Institutions, and Communities".
54. World Health Organization (WHO). (2017a). Public Finance Management within Health Financing (UHC Technical brief). http://www.searo.who.int/entity/health_situation_trends/public_finance_management.pdf, Erişim Tarihi: 29.08.2018.