AGE-RELATED PRIORITIZING: Assessing the Sufficiency, Prudential Lifespan, and Fair Innings Accounts

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What Is Age-Related Prioritizing?

Implausible versions:

- Both life-extending and quality-of-life enhancing care should have lower priority after age … ("complete life" age, "reasonably long life," "fair innings," etc).
- While quality-of-life enhancing care should be provided on an equal basis, no life-extending care should be provided after age ….

Plausible version:

- Quality-of-life enhancing care should be provided on an equal basis whatever one's age, but life-extending care may have gradually decreasing priority after age ….

Terminology

- "Age-related…," "age-based…" (interchangeable)
- Prioritizing is "directly age-related" when age itself is the basis for lower/higher priority.

  Prioritizing is "indirectly age-related" when age influences priority through some other factor with which it is associated – e.g., the smaller number of years usually saved by lifesaving treatment used on older persons.

  My concern here: directly age-based prioritizing
- Why "prioritizing," not "rationing"? Hard scarcity is missing. No individual is completely excluded.

The Age-Prioritizing Question

Once people have reached a "complete life" age, what life-extending care are they owed as a matter of justice and fairness in a collective setting (a whole society, an insurance pool, etc.)?

Would age-related priorities for life-extending care be *unjust*? Would they violate the *rights* of older people?

Note that an alternative version of the question puts the moral shoe on the other foot:

Is it fair and just for those who have already achieved the age of a "full life" to have the same priority for life-extending care as people who have not yet reached that age?

I. ‘Fair Innings’ (Alan Williams)*

- The claim: Everyone is entitled to a ‘fair innings’ (adequate period of time) in life, but not to more.
- Common intuitions/feelings/sayings behind this:
  - While it is always a misfortune to die when one wants to live, in old age the misfortune is not a tragedy.
  - Anyone failing to achieve a normal span of life has been “cheated”; anyone getting more than this is “living on borrowed time.”

“Intergenerational Equity: An Exploration of the ‘Fair Innings’ Argument,” *Health Economics* 6 (1997): 2: 117-132.

'Fair Innings' (continued- 1)

But what age constitutes a "fair innings"?

- A "normal lifespan"?
  - That could be normal *life expectancy*, but life expectancy from what point on? Birth? 20? 60?
- The notion focuses on *whole lifetime experience*
  - Then shouldn't it incorporate *quality-adjusted* life? Someone who has reached their "fair innings" in years will still be unequal in lifetime health if many years were marked by low health-related quality.
- Whatever this age is, that it is a "fair innings" is a social-cultural construct.

'Fair Innings' (continued 2)

- Giving higher priority for life-extending care to those who have not had their Fair Innings, and lower priority for such care to those who have, *does not need to be* an *absolutist* equality claim.
  - Differential priority can be graduated with patients' distance in age from a Fair Innings.

    E.g.: save a 65-year-old for 10 more years before saving a 75-year-old for 20 more, but save a 35-year-old for only 5 more (if that's all that's possible) before saving the 75-year-old for 20 more.
- Focus is on inequality & fairness. The view does <u>not</u> allege that life for the elderly has lower value.

II. Equality of Opportunity (Daniels)

- For justice, health is critically important – fair equality of opportunity (FEO)
  - Vantage point of "veil of ignorance"
- Does not demand equality of health – no right to *equal health*
  - Would slight the role of choice
  - Would ignore trade-offs with other goods that contribute to FEO – education, self-respect, income, etc.
- Does FEO require priority on getting to some particular age before living past it?

Prudential Lifespan Account*

- FEQ warrants "prudential lifespan" thinking – the distribution of health resources across a lifetime that would be in one's interest.
- More important to get to age 30 first than to get to 70 once one is 60. Same for getting to 50 first, etc.
- For life-extending care, age-based prioritizing over the whole adult lifespan is in everyone's lifetime interest.
- Fair – all who are old were once young.
- Leaves open how differential priorities would work.

* Norman Daniels, *Am I My Parents' Keeper?* 1988)

Daniels' Later Doubts*

- Resolving conflicts about such a broad notion as FEO requires a fair societal process with accountability for reasonableness. Does wider societal discussion come round to Daniels' view?
- Doubtful: age-prioritizing not accepted in real uses of fair societal process with accountability for reasonableness (e.g., NICE in UK). Socially sustainable implementation of FEO must defer to what emerges from such process.
- Response: does this show only weakness of will? Or that compassion outweighs justice?

* Norman Daniels, *Just Health: Meeting Health Needs Fairly* (2008)

III. A Sufficiency Theory of Social Justice (Powers & Faden)*

When are deficiencies in health unjust, not just bad or unfortunate? When do they create obligations, especially collective obligations of communities, to alleviate or minimize them?

- Inequality in health between people does not itself constitute injustice. All may be healthy enough to thrive, or some may have incurred risks to achieve higher levels of another good.
- Injustice is insufficiency of health, not inequality.

* Madison Powers & Ruth Faden, *Social Justice: The Moral Foundations of Public Health and Health Policy* (2010)

Sufficiency (cont'd)

- Health that is insufficient for what? For a life in which one can thrive and flourish.* But it is not possible to see what this level is by looking at health alone.
- Health is one of six essential dimensions of human well-being (EDsWB), along with self-determination, respect, attachment, reasoning, personal security.
- While each EDWB must be met at some very basic level to allow any human being to thrive, no single EDWB, including health, operates as a separate or privileged sphere of justice. A level of health might be insufficient, for example, because it endangers adequate bonds of attachment.

* Powers & Faden, "Sufficiency, Relational Egalitarianism, & Health" (2012)

P&F: Age-Based Prioritizing Rejected

- Sufficiency of all six EDsWB is required. Age-based prioritizing that restricts life-extending care in old age threatens the sufficiency of respect and bonds of attachment for older persons. Can we really respect them and help them nurture attachments to others if we are not going to help them less to stay alive?
- Age-based prioritizing might escape this objection re respect and attachment if we see sufficiency in health from a whole-life perspective (a la Fair Innings and Prudential Lifespan). But sufficient well-being is never to be seen only from such perspective. It always must reckon with point-in-time sufficiency as well. After all, that's where it is experienced.

Challenges for Powers & Faden

Age-Based Prioritizing and Respect

- If having lived to 85 does satisfy the sufficiency in health that justice demands, why should people over 85 think that not providing them life-extending care *on as high a priority basis* as care to a 40-year old denies them respect? It does only if their health-related WB is insufficient.

- Similarly, if it is fair not to provide them life-extending care on as high a priority basis as care to a 40-year old, that will show them no *disrespect* even if they want to live as much as the 40-year-old does. The fairness claims of Fair Innings and Prudential Lifespan need to be directly reckoned with if P&F's lack-of-respect argument against age-based prioritizing is going to be persuasive.

Challenges for P&F (cont'd)

Bonds of Attachment

- Death does disrupt bonds of attachment, at any age, but when the mortality is not premature, why say the disruption is unjust? Sad, yes. Unjust, no.
- Example: widow and widower remarry at 90 (say), then one dies – a terrible loss, but what is its connection with justice/rights/fairness?

Bonds of attachment will of course diminish in one's later years as peers and loved ones die. Older people learn to expect such things as they age. This natural slide hardly implies that bonds of attachment have fallen below the sufficiency line.

Summary Assessment

- Fair Innings. The age that constitutes a "fair innings" remains ambiguous and contested, but the argument's underlying fairness judgment is strong.
- Daniels. Prioritizing based on a prudential lifespan judgment is fair – prioritizing is in everyone's interest, & everyone has be young before getting old. But public seems either
  - not quite to absorb this reasoning
  - to reject it
  - to accept it but think compassion outweighs it, or
  - to accept it but show weakness of will

Summary Assessment (cont'd)

- Powers & Faden. What is "sufficiency" in health, respect, and bonds of attachment is too ambiguous to settle the matter. But the respect and attachment arguments against age-based prioritizing probably do reflect some of the public's hesitation/resistance.

Is this topic merely philosophical indulgence in pursuing implications of moral analysis that are predictably controversial & upsetting to the public?

NO. The cost fueling impact of demographic aging and relentless expansion of medical ways to delay death will inevitably strain resources and clash with other priorities (for prevention, e.g.).

Reminder re Plausible Prioritizing

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