DISTRIBUTIVE JUSTICE

Ethics article by Prof James Ker (Snr)

The concept of distributive justice in its most essential form simply means giving each their due[1].

Distributive justice can also be viewed as a moral principle by which resources are allocated fairly among diverse (different) members of society in a non-discriminatory way. Distributive justice is administered on a population level and on a personal level. On a more personal level, distributive justice implies that people in similar positions should be treated in a similar manner[1].

A theory of justice implies that each person has equal right to equal basic liberties compatible with a similar system of liberty for all. In this theory of justice, social and economic inequalities are to be arranged so that they are both to the greatest benefit of the least advantaged person and it is open to all under conditions of fair equality of opportunity[1].

The first hurdle is the two-sided coin with resource allocation on one side and on the other side the doctor's primary duty to patients by providing maximum benefit and minimum harm. A looming large problem in distributive justice is the increasing expectations of patients for the best possible treatment and treatment results and simultaneously the increasing expectations of access to an ever-rapidly advancing high quality technology. There is an explosion of costly new treatment modalities. The perception among many of the general public is that the higher the advanced technology used in medicine for diagnosis and treatment, the better the outcome of treatment[1].

Resource Allocation:

Resource scarcity consists of fiscal scarcity (restricted money) and commodity scarcity which is a finite resource for example the availability of organs for transplantation.

It is a given that resources will always be limited both from the nature of resources and the competing interests for these resources. Health is not the only issue and priority when allocating resources.

In general resources are allocated on 3 levels:

1. Macro-allocation by Governments at National, Provincial and Local level.
2. Meso-allocation of resources at the level of hospitals and clinics.
3. Micro-allocation at the level of the individual[1].

The Distributive Justice Triangle:

The three important role players in this triangle is:

1. The patient with expectations of only the best treatment regardless of cost. What is at stake is maximum benefit (beneficence) with little if at all harm (non-maleficence) and most of all autonomy of the patient. "I want this treatment".

2. Resources that may always be limited and of course a function of a nation's economy. Some medical treatments may simply not be affordable. The debate would be whether health allocation of resources is more important than say food supply etc[1].

3. The doctor: Medical ethics require that the doctor must at all times only do the best for any patient. This requirement of doing the best possible is inherently part of the professionalism of the doctor together with all the other ethical requirements. The doctor gets all the requests for only the best treatment with the latest in therapy or technology. "I want the best". The doctor clearly has a dilemma to apply equally to all the same therapy and the doctor must face both practical issues and ethical issues in doing so[1].

A study from the USA, using data on household income at age 40 years, compared life expectancy using data from the 1% richest people in comparison to the 1% poorest people over the period 2001 to 2014. The high-income group lived on average 14.6 years longer (95%CI: 14.0-14.8 years) for men and 10.1 years (95%CI: 9.9-10.3 years) for women. Is this the effect of money only? The question why income and health are so strongly related needs further research[2,4].

How Then Should Resources Be Allocated?

Aristotle's principal of distributive justice states that equals should be treated equally and those who are unequal should be treated unequally. Surely this concept of distributive justice has changed over time. The modern ethics of resource allocation may be considered in relation to the concept of justice and the doctor's fiduciary duty (legal and ethical) toward the patient[1].

There are morally irrelevant or morally unacceptable criteria for the distribution of scarce resources such as based on age alone, sexual orientation, religion, level of education or gender. These criteria are not even open for debate and have no place in distributive justice. Unequal treatment is justified when resources are allocated in the context of morally relevant differences such as those about need or likely benefit[1].

Morally more acceptable criteria which should always be debated, are the following:

1. The fair chance versus the best outcome debate. The issue is to what degree should producing the best outcome be favoured over giving every patient an opportunity to compete for limited resources?
2. The priorities issue. The question for debate is how much priority should be given to treating the sickest or the most disabled?
3. The aggregation issue. The debate is when should we allow an aggregation of modest benefits to larger numbers of people to outweigh more significant benefits to smaller numbers of people?
4. The democracy issue. The debate is when should we rely on democratic processes as the only way to determine what is a fair rationing outcome?[1]

These questions help to frame discussions of resource allocation and help to develop policy practices that balances the obligations of doctors in a just society with their obligations to individual patients. The doctor also has to keep track of his or her fundamental role of always promoting and acting in the patient's best interest. Another side of the argument is that the doctor's role to do everything possible for the patient regardless of the cost or other societal considerations must rather reflect a more balanced action. The interest of the patient must rather be weighed against the legitimate competing claims of other patients, of payers of medical care[1].

How Should a Doctor Approach Resource Allocation or Distributive Justice in Clinical Practice?

The doctor has the goal to provide optimal medical care within the limits imposed upon the doctor by the allocation of resources for health care and the specific situation wherein the patient is being treated. The flowing are a few suggested guidelines:[1,3]

1. Choose interventions known to be beneficial that is based on evidence tested for effectiveness: evidence-based therapy.[1]
2. Minimise the use of marginally beneficial tests or marginally beneficial interventions. The onus is on the doctor to be able to interpret published studies and derive a decision whether the new treatment has benefit that far outweighs the harm.[3]
3. Choose a diagnostic test or treatment that will deliver the intended benefit for the least cost.[1]
4. Be an advocate for your own patients but avoid manipulating the system to gain an advantage.[1]
5. Use morally justifiable criteria when having to apply distributive justice for diagnostic and therapeutic decisions.[1]
6. Inform and discuss the impact of cost constraints on care but do it in a sensitive way. Blaming higher authorities is not the way as it undermines care by reducing confidence and increasing anxiety at a time when the patient is most vulnerable.[1]

References:

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