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Healthcare for the Undocumented

In the United States disparities in all facets of healthcare have been increasingly put forth as an issue for healthcare in general and yet another example of how certain groups in society are consistently marginalized and vulnerable. At the same time there is increasing attention to the place and rights of the undocumented in our society and how they should be treated. Disparities in healthcare for citizen groups and the rights of the undocumented intersect at the point of discussing whether or not the undocumented have a right to public social services while they are living in this country. Other countries are having similar issues. In Denmark access to more than emergency healthcare is dependent on immigration status. This is spite of Denmark ratifying a number of human rights documents that contain the right to health.

Proposing political solutions to the issue of the undocumented is not the purpose of this paper; nor is teasing out the various definitions of health, healthcare, basic healthcare and the like. While politics and semantic differentials are interesting and need eventual discussion, they may cloud the more concrete issue in this short presentation which is "As long as there are undocumented people living in the country, we need to determine what they are entitled to on a public basis and what they may not access." More specifically, another way of phrasing the question is "Is citizenship (in all its forms) required for access to public healthcare?"

A "yes" or "no" response to access requires a rationale. Those that do not favor the undocumented accessing public services have the easier argument with a rationale based on the illegality of the undocumented persons' presence on US shores. Those favoring the ability of undocumented to access public services such as healthcare need an argument that "trumps" the argument of "illegal status equals no access." The question then becomes, "which argument will be sufficient to present a defensible stance." The choices for potentially persuasive arguments include a human rights perspective as well as a "common good" perspective. A third option is the realization that a multi-argument and perspective is needed to address the multiple issues.

The UN Convention on Human Rights and other types of rights' claims are natural choices and often cited as the bases for claiming rights when such rights have not been codified in public policy and/or law. For those who operate under a human rights framework, the UN Convention would be a logical choice. However, all rights' claims seem to go only as far as the groups that are already of a like mind. Assuming that most citizens are compassionate and care about the less fortunate than themselves, then why does a human rights claim not persuade them?

Perhaps the problem is with human rights and other rights-based claims. For example while not necessarily disagreeing with the concept of human rights, there are those who feel that rights' claims are not the best argument. Edge and Groves critique the seemingly default use of rights as our inability to provide other coherent arguments. They also state that to use rights for every claim is to trivialize them. On a practical basis, even when human rights claims are granted, these claims do not specify how the particular rights can or should be granted. There is not even agreement on who has the authority to grant the rights and where the authority lies in applying sanctions. The case of Denmark is a good example of being a signatory to a document but placing restrictions on the implementation.

Perhaps human rights claims are a necessary starting point. Norman Daniels has said that also necessary is a discussion about the goods and outcomes of healthcare. The argument might go something like: *healthcare is a necessary good because health is seen as a human right in order to promote optimal development and flourishing of individuals, groups and society as a whole.* It is hard to imagine disagreement with such a generic claim. But how does the discussion move towards activation. Seemingly another claim is needed which provides the rationale for providing healthcare.

A "common good" perspective is not one that is often voiced in the United States as in other countries. This omission emanates from the founding value orientations of individualism and the importance of self-sufficiency and self-responsibility. In spite of the omission, the United States does have a tradition of "public health" whose mission is to improve the health and well-being of communities and individuals within communities. Interestingly, Americans don't have a problem in understanding the need to eradicate or control communicable diseases or the problems of second-hand smoke but have not so far extended this to seeing the problem of having unhealthy individuals in communities when the health issue is not directly affecting them.

This presentation will continue to discuss the linkage of right to healthcare as a public health issue.