

# A CRITIQUE OF THE ARGUMENTS IN DEFENCE OF A RIGHT TO A DECENT MINIMUM HEALTH CARE.

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**Abstract:** *This paper attempts a critique of the arguments advanced in support of a right to a decent minimum of health care. Using the method of analysis and argumentation, it examines arguments earlier given by scholars to justify a right to a decent minimum of health care. It avers that arguments bordering on the need to cater for other sectors of the economy or the dwindling fortunes of the government at some periods on which the right to a decent minimum of health care is justified confuses the unique nature of the health sector and the other sectors of the economy. It concluded that a right to a decent minimum of health care is not enough as most medical issues such as the IVF and similar ones may require huge financial commitment which an individual may not be able to finance. As such, government should embrace the right to an unqualified health care.*

**Keywords:** *The right to health care, limited right to health care, unlimited right to health care.*

## Introduction

This paper is an attempt to justify the need for an unqualified or an unlimited right to health care. By unqualified, unlimited or strong equal access to health care, it should be understood as a social arrangement where the government shoulders all the responsibilities of her citizens on health matters. It examines the works of scholars like Allen, Yvonne Denier and Thomas Halper who defended a right to a decent minimum of health care. It concluded that contrary to the contentious positions held by these scholars, the state should facilitate the citizens' unlimited right to health care.

## What are Rights?

It is common place to hear certain things about rights. Sometimes in the quest for justice discussions about rights often come to the fore. In circumstances such as these, there is an implicit assumption that there are certain rights to be enjoyed by individuals within a state. For instance, T.H. Marshall conceives citizenship as a form of rights to be enjoyed by

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members of a political community, namely the state.<sup>1</sup> The famous debate between those in support or against abortion is to an extent about the question of rights.<sup>2</sup> Issues considered in these contexts imply that there are rights. It is therefore expedient to consider the nature of rights. In T. Ozar's account the word rights has many components. Due to its multidimensional nature, a single definition of the word rights is almost impossible. An adequate conception of rights is however possible in Ozar's view provided we understand what it means when we say that somebody has a right to something and be sure of when an individual is qualified as a claimant of a right. Thus for Ozar, rights involves stating what should be the case and the contrary in any given context.<sup>3</sup> Let me explain. In the case of citizenship as a member of a political community, T.H. Marshall considers a citizen as someone who enjoys civil, political and social rights.<sup>4</sup> Whoever does not qualify to enjoy these rights is not a citizen. This example shows one of the ways by which rights are understood by Ozar. In another sense, Ozar argues that discussions on rights are only meaningful where they refer to at least one person. That is, a person who has a right to enjoy a certain thing, against another who does not. This simply suggests that only human beings could be said to have a right to something or the other. Ozar however admitted that sometimes there are endless discussions on the rights of non-humans, but maintains that it may require more proofs.

In Ozar's view, rights are "relational"<sup>5</sup> That is, an individual only has a right to something in relationship to another person who has a duty to perform towards ensuring that the right bearer enjoys it. Contractarians, particularly, Thomas Hobbes argues that the inhabitants of the state of nature surrendered their rights to self-governance to the Leviathan. Their rights to life imply that no one can kill another person, and presupposes that an individual's right to life implies that another person cannot legitimately take his life.<sup>6</sup> In the view of Rainbolt, discussions on rights can only be understood in relationship with Hohfeldian relations. Hohfeldian relations are: claims, duties, liberties, no-claims, powers, liabilities,

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<sup>1</sup> T.H. Marshall, *Citizenship and Social Class*, (Cambridge: University Press) 1950, pp. 10-11.

<sup>2</sup> D. Boonin, *A Defence of Abortion*. (Cambridge: University Press) 2003, p. 14.

<sup>3</sup> Patricia, H. Werhane. et al, *Philosophical Issues in Human Rights*, (New York: Random House) 1986, p. 4.

<sup>4</sup> O.P. Gauba, *An Introduction to Political Theory*, (India: Macmillan Limited) 2007, p. 271.

<sup>5</sup> Patricia, H. Werhane, et al, *Philosophical Issues in Human Rights*, (New York: Random House) 1986, p. 4.

<sup>6</sup> R. Janice, *The Classic Social Contractarians*, (U.S.A: Ashgate Publishing Company) 2009, p. 32.

immunities, and disabilities.<sup>7</sup> According to Rainbolt, “a has right when a has a claim or an immunity.”<sup>8</sup> For instance, a landlord who rented an apartment out for one hundred and twenty thousand naira per annum in Nigeria has a claim right of the said amount from his tenant. Immunity right is the type of rights that constrains others from arbitrary conduct against the bearer of the right in question.<sup>9</sup> For J.S.Mill: “when we call anything a person’s right, we mean that he has a valid claim on society to protect him in the possession of it, either by the force of law or by that of education and opinion.”<sup>10</sup> In Paul Patton view, a right to something gives the right bearer a privilege to enjoy the benefits from such right without any hindrance from the state or other individuals.<sup>11</sup> Having discussed the nature of rights up to this level, I proceed in the next section to explicate and examine some arguments advanced in support of a right to a decent minimum of health care.

### **Arguments in Support of a Decent Minimum of Health Care.**

Allen argues that it does not seem to him a realistic project on the part of the society to provide an important level of health care for everybody. The problem with the supposed right to health care, Allen seems to argue, implies that whatever is possible must be done to ensure that everybody enjoys a reasonable access to health care. For him, there is no way this can be accomplished. This is because such right to health care fails to realize that there are periods when there are challenges with the government finances, namely, when the cost of governance must be reduced, which may in turn lead to reduction in the budgetary provisions for the health sector in the overall interest of the other spheres of the economy. In anticipation of this possibility, namely, the dwindling finances of the government and some other reasons, Allen argues for a right to a decent minimum of health care. In order to understand the idea of a decent minimum of health care, it is important to examine some of its characteristics.

For Allen, the notion of a right to a decent minimum has three major characteristics. It has been argued that the notion of a decent minimum could only be explained within a particular society. It is believed that just as the inhabitants of a society may have some rights to other things apart from health care, say education, it may be necessary to embrace the idea of

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<sup>7</sup> G. Rainbolt, *The Concept of Rights*, (Netherlands: Springer) 2006, p. 1.

<sup>8</sup> Op. cit., p. 28.

<sup>9</sup> Op. cit., p. 25.

<sup>10</sup> J.S. Mill, “On the connection between justice and utility” in Sher G. (Ed) *Utilitarianism*, (U.S.A: Hackett Publishing Company, Inc) 1979, p. 52.

<sup>11</sup> P. Patton, “History, normativity, and rights” in Costas Douzinas and Conor Gearty (Eds) *The Meaning of Rights, The Philosophy and Social Theory of Human Rights* (Cambridge: University Press) 2014, p. 233.

a decent minimum of health care, since a crusade for a right to health care either minimum or strong equal access, must take cognizance of the financial strength of the society and must be agreed upon by her members. The notion of decent minimum is therefore embraced because it takes cognizance of social reality. That is, it allows members to enjoy certain rights to health care to some levels, and also allows such to be improved relatively to the financial strength of the society. The notion of a decent minimum has also been embraced because it does not run into the same problem with the strong equal access principle, even though it recognizes the fact that there are universal rights. The thesis defended by the strong equal access principle is that “everyone has an equal right to the best health – care services available”<sup>12</sup> Allen argues that the strong equal access principle leaves us with no good option, as it constrains our choices to two positions that are not encouraging. It leaves the society with the option of making the status of health care to the people such that it will not meet the professional requirement or make it in such a way that it will be acceptable only when it meets the professional requirement alone. The first option Allen argues will lead to a situation where the inhabitants of the society will not be allowed to pay for goods and services not provided by the state. These people may spend their money on things not as important as their health but find it difficult to make any financial commitment on their health. In cases where the people are allowed to expend their money on their health provided that they do not buy things that are already provided for by the state, the strong equal access principle becomes a decent minimum right to health care. The other alternative is to subscribe to the arrangement where everything required as specified by the professionals in the health sector will be provided by the state. This option, according to Allen limits government intervention in other spheres of the economy because of its enormous financial burden. The notion of decent minimum level of health care has also become popular because it recognizes the fact that health care is multifaceted. It will be difficult if not impossible to provide for everything in the health sector, defenders of this view argued; as such policies in the health sector must consider things that are germane to the survival of the people, that is, health care needs that are basic. In the next section, the view of Yvonne Denier on a right to health care will be discussed.

### **What is a Human Right to Health Care?**

In the view of Yvonne Denier, saying that there is a fundamental human right to health care could be understood in four senses. Firstly, it

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<sup>12</sup> Allen E. Buchanan, *The right to a decent minimum of health care, philosophy and public affairs*, 13, 1984, p. 58.

implies that the society has a moral obligation, to provide health care needs of her members. Second, it should be emphasized that this kind of obligation should be understood strictly. This implies that having a right to health care needs should take precedence over and above other things in the prevalent circumstances. Third, to have a basic right to health care, the right bearer should be allowed to enjoy to a very large extent, health care needs and services. Any social arrangement which fails to accord the right – bearer this privilege is nothing other than injustice. Fourth, human right is accorded human beings alone.<sup>13</sup>

### **Justification of the Right to Health Care.**

For Denier, the major reason for a right to health care is due to the purposive nature of such right. A right to health care serves as a vehicle for the attainment of that which is desirable among different people in the world. That is, people in the world are not only willing to live a life that is devoid of pain and physical or non- physical challenges; they are also willing to live in an environment where their life expectancy is relatively reasonable. Health care needs, it may be argued, is not the only thing desirable across the globe, and so will not suffice on the basis of being valued to be considered as a right. Denier bares his mind on three other arguments, which for him, lay credence to arguments in favour of a right to health care. For the purpose of this paper, I consider two of these arguments.

The first argument is what he called basic health- care needs. Basic needs are the essential needs required by human being to live conveniently in a society. They include physical and non-physical materials such as food, clothing, shelter and emotional needs of individuals in the society. They are considered as fundamental needs not only because they apply to the generality of humans but also because without them human beings cannot survive. In the same vein, human body requires certain things for its various organs to perform well. These things include good feeding, good accommodation, environment devoid of dirt, a friendly atmosphere where the person can work. These are the basic health care needs required by all human beings. They are basic because they apply to all culture at all times, and evolve “from human vulnerability and finitude”<sup>14</sup>. The society is under a moral obligation to ensure that these basic needs are enjoyed by her members.

The next argument is what he calls the collective social protection. The idea of a collective social protection is associated with a lot of issues on health matters. It is very unlikely that citizens on their own could corner

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<sup>13</sup> Denier, Y. Efficiency, *Justice and Care, Philosophical Reflections on Scarcity in Health Care*, (Netherlands: Springer) 2007, p. 77.

<sup>14</sup> Op. cit., p. 78.

enough resources to provide everything necessary to enjoy a sound health. Apart from this, health-care needs are in most cases unevenly shared when compared to other needs. Thus for instance, a large number of people may require similar quantity of food to survive, but when it comes to health care needs, people's needs for survival are different. By its nature, it is often difficult to say in advance what a particular person's need in the health sector will be. Besides, being able to meet one's health care needs will to a large extent determine the chances of an individual in the society. Lastly, health care needs sometimes may be outrageous, thereby making it difficult for an individual to procure it. Granted that health care needs are fundamental to the survival of human beings, arising from the force of arguments up till this level, it may be relevant to know the range of the health care needs that can be enjoyed by human beings. In a bid to answer this question, Yvonne Denier argues for a limited right to health care needs. For him, having a right to health care cannot be an unlimited one. It is not the case that the society can provide all that is required to cater for the health needs of her members. This is because health care for him is not the only thing desirable. Besides, the fat 'resources' needed to provide for health care services are not in abundance. Available resources must be channeled to other sectors of the economy. Also, the advancement in technology, he argues, has made it practically impossible to argue for an unlimited access to health care, since rapid technological advancements across the globe had increased the demands of health care services. On the basis of this, it would not be economically reasonable on the part of the state to completely finance the health sector. On the basis of these arguments, Denier argues for a limited right to health care. In the next section, I consider the arguments advanced against a right to unlimited right to health care by Thomas Halper.

### **The Right to Health Care**

According to Thomas Halper, the right to health care could be understood in two senses. "It is an obligation on the part of society, negatively or procedurally, not to interfere with the individual's pursuit of health care and, positively or substantively, to provide that care when the individual demands it"<sup>15</sup> Rights understood in these senses, for Thomas Harper is related to the concept of obligation in three ways. Rights in relationship with obligation, simply put, to have a right to something, say education or health care implies that somebody has the obligation towards ensuring that the right bearer enjoys it. In another way the concept of right

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<sup>15</sup> T. Halper, "Rights, reforms and the health care crisis: problems and prospects", in, T.J. Bole III & W.B. Bondeson, (Eds) *Rights to health care* (London: Kluwer Academic Publishers) 1991, p. 135.

also stipulates that the right bearer performs certain duties. Just as the society, community or group to which the right bearer belongs are under certain obligations towards ensuring that the right bearer enjoys his or her right, the right bearer, according to this view is also obliged to perform certain duties corresponding to the right in question. Lastly, right implies that the society is morally obliged to ensure that right bearers enjoy it. “It is not an in personam right that one person may claim against another, but rather an in rem right that one may claim against the whole community:”<sup>16</sup> The next question is: what kind of health care can citizens enjoy? Halper’s attempt to answer this question led to his discussion of types of rights to health care. For Thomas Halper, two types of rights to health care exist. There is a type, which he refers to as “an unqualified right”. The ‘obligations’ of the ‘society’ are formulated without necessarily specifying the requirements for this type of health care. In other words, the only requirement for this kind of right to health, namely, unqualified right, is based solely on medical consideration. Proponents of this version of health care right, argue that the enjoyment of an individual’s political rights, is to a large extent determined by his or her access to education, other basic needs of life, and most importantly, such individual must be able to “receive good health”.<sup>17</sup> In his desperate move against an unqualified right to health care, Halper advances some arguments against an unqualified right to health care. According to him, the right to an unqualified health care assumes that the virtues of excellence and equality, which hitherto had been accomplished at the cost of either of the duo, can be realized at the same time. Let me explain. Attempt to accomplish excellence is only possible by ensuring that resources, both material and human be adequately provided at that period in time. For instance, excellence in the health sector may necessitate the provision of adequate resources in this sphere of the economy. The same argument can be applied when efforts are being made towards accomplishing excellence in other sectors of the economy. The problem then is, if the right to an unqualified health care is to be accomplished, it calls for the concentration of resources in the health sector, at the expense of the principle of equality, which stipulates that such resources be evenly distributed among all sectors of the economy. This obdurate quest for an unqualified right in the health sector in Halper view will lead to several questions, the answers to which may be interdependent. Thus for instance, assuming that a case is made for an unqualified right to health care, someone may be interested in the kind of health care a particular individual can enjoy. Are we interested in health care services that are required in cases of emergency or otherwise? Harper

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<sup>16</sup> Op. cit., p. 136.

<sup>17</sup> Op. cit., p. 136.

seems to maintain that the definition of health by the WHO raises further problems on the right to an unqualified health care. WHO defines health as “a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity”<sup>18</sup>. The question is whether it is possible to be healthy as stipulated by WHO. If an individual cannot be healthy as stipulated by WHO, does such individual has the unlimited right to health care where he or she could enjoy an unqualified right to health care especially when there are inadequate financial resources to sustain such project.

Determining whether an individual has a right to health care, in Harper view is further complicated by the individual’s disposition. The problem is whether the individual accepts the traditional medical practices against other forms which he may have recourse to especially during sickness. Arguments in favour of the right to health care Harpers argues, glosses over this important aspect of the programme. Suppose an individual has a right to health care but rejects traditional medical practices. Again, Harper seems to claim that what happens to an individual who is involved in practices that could expose him to health hazards such as, smoking or intakes of alcoholic drinks. Let us assume that these practices deteriorate the health conditions of individuals, should we still say that such individuals should enjoy unlimited right to health care? Is it the case that the society has to care for these individuals at all cost regardless of the ways in which they have lived their lives? Granted that the society has a duty towards ensuring that her members enjoy an unqualified right to health care, what are the implications for professionals in the health sector? A regime of unlimited access to health care would necessarily increase the responsibilities of medical personnel. The problem raised by Harper is whether the opinion of the medical personnel matter in circumstances like these, since they shoulder most of the professional responsibilities. If we argue that their opinions do not matter, would it not amount to an infringement on their own rights? In Harper’s view, the crusade in favour of an unqualified right to health care is an attempt to employ a non-political means to achieve something that is completely political. The domain of politics is where people compete for resources that are relatively scarce. Any attempt to argue for the regime of an unlimited access to health care implies that special consideration will be given to the health sector over and above other sectors of the economy. This would have given this sector, a head start, against other sectors. Having explicated the major arguments advanced by different scholars against an

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<sup>18</sup> Machteld Huber, *Health: How should we define it?* In British journal, 343, 2011, p. 235.



unlimited right to health care, in the next section, I attempt a critique of the arguments against an unlimited right to health care.

### **A critique of the arguments in support of a right to a decent minimum of health care.**

Proponents of a qualified right to health care or a decent minimum level of health care maintain that any arrangement contrary to this, is unrealistic. In support of this contentious position, a number of arguments have been offered. In this section, I examine some of the arguments and argue that they are not strong enough to support their conclusion. On the contrary, I argue for an unqualified right to health care. One prominent argument advanced by scholars against an unqualified right to health care, is the argument from the existence of other sectors of the economy. The thrust of their argument is that, there cannot be an unqualified right to health care because health care is not the only thing desirable, and that, the government cannot afford to finance the regime of an unqualified right to health care. This argument is implicitly premised on the fact that the regime of an unqualified right to health care, requires a huge financial commitment on the part of the government, and that given the existence of other sectors, it cannot be realized. It is however important to stress that the assumption behind a crusade for a right to health care whether a qualified or an unqualified right to health care is the fact that health care is a basic need for humans. As a basic need, it must be met. Basic needs by their nature are such that are required for the optimal performances of human beings. On basic needs, Streeten and Burki maintain:

BN gives high priority (attaches considerable weight) to meeting specified needs of the poorest people, not primarily in order to raise productivity (though additional production is necessary), but as an end in itself. It covers the unemployables as well as the unemployed: the old, the disabled, the sick.

(Streeten and Shahid Burki,<sup>19</sup>

Considering the necessity of health care needs to the continuous existence of the human race, there are reservations whether a qualified right to health care occasioned by the existence of the other sectors of the economy is a strong argument against an unqualified right to health care. There are other sectors of the economy such as education, agriculture, transportation and many others. The pertinent question is whether in order for the needs of the other sectors to be met, the government should only finance a qualified right to health care or a decent minimum of health

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<sup>19</sup> Streeten Paul & Shahid Javid Burki, "Basic needs: some issues", World Development, 6, 1978, pp. 411-421.

care. The existence of other sectors of the economy, to my mind, is not enough reason for a qualified right to health care. Just as the other spheres of the economy are important, it seems to me that the health sector is the bedrock of these other spheres. Without ensuring that the health sector is provided with adequate resources, efforts made in other sectors may merely be a waste of time. Let me explain. Let us begin with the agricultural sector. One major argument often advanced in support of the development of this sector is food security. That is, a country with a functioning and robust agricultural sector will be able to provide enough food for her population. While this is however laudable, it is not enough reason for the government to endorse a regime of a qualified right to health care or a decent minimum at the expense of her citizens, who may have suffered from one form of deprivation from some of the policies of the government. Even when the resources for advanced agricultural policies have been provided, they can only be well utilized when they are managed by healthy professionals.

In the educational sector, the government must also discharge her responsibilities to the citizens. It is however doubtful whether the need to discharge her responsibilities in the educational sector is enough to argue for a qualified right to health care. All over the globe, there are levels of training in the educational sector. The desire level of education for a particular citizen is often different from that of the other. This is explained by the fact that educational goals are not about wishes alone but also border on the mental capability of individuals. On the basis of this, it is often easy for the government to finance the educational sector to a minimum level. This is however should not be encouraged in the health sector. The health of an individual is a matter of life and death. A call for a qualified right to health care or decent minimum of health care to my mind confuses the needs of these sectors.

The argument for a qualified right to health care or a decent minimum of health care also fails, even when, her proponents have recourse to scarcity of financial resources. Let us assume that, the proponents of a qualified right to health care maintain that government of most countries of the world cannot provide everything that is required for their citizens in the health sector, because of the obvious scarcity of resources. In response to this objection, I argue that health care needs are basic, and because of their nature, government should ensure that the available resources be prudently managed to prevent wastages, which have been the bane of most countries of the world. To this end corruption in all forms should be discouraged. Corruption has been the bane of most countries of the world

which has prevented the average citizen from enjoying better health care delivery.<sup>20</sup>

In a desperate move to argue for a qualified or a decent minimum of health care, defenders of this contentions position maintain that government could only ensure that citizens are provided with a decent minimum level of health care. This position assumes that there are lots of factors that have may militate against the desire for an unqualified health care. The current level of technological developments, which have made it difficult, if not impossible to limit the level of health facilities which citizens can access, the peculiar lifestyles of citizens, which to a very large extent may have contributed immensely to their current health status and the implications of the regime of an unlimited health care services on the lives of the medical professionals, are some of the reasons adduced for a decent minimum level of health care. I argue on the contrary that these factors are not only inadequate for a qualified health care but also that the notion of a decent minimum of health care is vague. It is not just enough to argue for a decent minimum of health care, arguments for this seemingly controversial position should be made. Such arguments must show what a decent minimum of health care must conform to and why it should be embraced. Let me explain. The health care needs of citizens are multidimensional. At what point should we expect an individual with a particular health challenge to have enjoyed a decent minimum of health care? Does the notion of a decent minimum of health care begin and end at the primary health care level? Greenhalgh defines primary health care as:

Primary Health care is what happens when someone who is ill (or who thinks he or she is ill or who wants to avoid getting ill) consults a health professional in a community setting for advice, tests, treatment or referral to specialists care. Such care should be holistic, balanced, personalized, rigorous and equitable, and delivered by reflexive practitioners who recognize their own limitations and draw appropriately on the strengths of others.<sup>21</sup>

Health care needs are fundamental to the continuous existence of the human race. They have to be provided at all cost; otherwise the human race will go into extinction. It emphasizes the prominent place of care in the preservation of the human race.<sup>22</sup> As such, it is very difficult to

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<sup>20</sup> Anna, Markouska Nya Adams, "Political corruption and money laundering: lessons from Nigeria" in the Journal of Money Laundering Control, 18, 2015, p. 175.

<sup>21</sup> T. Greenhalgh, *Primary Health Care, Theory and Practice*, (USA: Blackwell Publishing Inc) 2007, p. 12.

<sup>22</sup> R. Fiona, *The Ethics of Care, A Feminist Approach to Human Society*. (Philadelphia: Temple University Press) 2011, p. 2.

determine at which level an individual would have met the condition of a decent minimum. Let us consider the case of a patient who suffers from secondary infertility. "Secondary infertility is defined as the inability to become pregnant, or to carry a pregnancy to term, following the birth of one or more biological children.....".<sup>23</sup> A woman who suffers from this medical condition will probably begin from the primary health care unit where she may be referred to a specialist. Let us suppose that several attempts made by the woman to conceive naturally were to no avail. The gynecologist had to suggest that she tries IVF an artificial method to conceive, as the last resort. According to Anthony Dyson: "first, IVF refers to the joining of female egg and male sperm outside the woman's living body"<sup>24</sup>. It is a medical procedure that could involve different stages. Anthony Dyson notes:"

The IVF process can be divided into four phases. The first phase is concerned with the production of eggs (or ova). The second phase is concerned with the extraction of eggs. The third phase is concerned with fertilization (or conception), and the fourth phase with the transfer of the embryo to the mother's uterus (or womb)"<sup>25</sup>

At what point should we consider her to have enjoyed a decent minimum? There are reservations whether she could be considered to have enjoyed a decent minimum at the primary health care level where she was referred to a specialist. Neither can we say she has enjoyed a decent minimum whenever she successfully becomes pregnant through IVF, nor when the pregnancy has matured before delivery. The point being made with this illustration is that health care needs may require several approaches with enormous financial commitment before they could be met. In the process, particularly in the illustration just made, and similar ones, what determines a decent minimum?

It will also not suffice on the part of the defenders of a decent minimum of health care to rely on a utilitarian argument, that what is right should be such that tries to promote the interest of the majority. "Utilitarianism is the view that benefits should be maximized and burdens minimized, where benefits and burdens are functions of individuals' interests, desires and preferences".<sup>26</sup> In this context, defenders of a qualify right to health care may argue that since the woman in question suffers from secondary infertility, it is not right to commit the public financial resources to meet her needs, at the expense of the majority. I argue that

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<sup>23</sup> Secondary infertility, retrieved from [Http://WWW.resolve.org.2012/2015](http://WWW.resolve.org.2012/2015).

<sup>24</sup> A. Dyson, *The Ethics of IVF*, (New York: Mowbray) 1995, p. xi

<sup>25</sup> Op. cit. p. 28.

<sup>26</sup> D. Lynons, (Ed) Rights. (Belmont, Cal; Wadsworth Publishing Co. Inc) 1979, p. 6.

such defense would not be enough to override the interest of the woman. Such position has suffered some criticisms from critics of utilitarian who argue that the theory is grossly inadequate because of its preference for the overall interest of the majority. Notable among the critic of utilitarianism is J.S. Mill, who argues against this theory because of its obdurate defense of the majority's interest which for him is capable of promoting injustice. In this context, following Mill's conception of justice, namely, Mill writes, "...it is universally considered just that each person should obtain that (whether good or evil) which he deserves, and unjust that he should obtain a good or be made to undergo an evil which he does not deserve"<sup>27</sup> Arguments for a limited right to health care or a decent minimum on utilitarian's consideration amounts to an injustice on the part of the minority, say the woman with secondary infertility, who may not enjoy all that is required to facilitate the success of her IVF from the state.

## Conclusion

This paper examines the works of scholars like Allen, Yvonne Denier and Thomas Halper who argued against an unlimited right to health care. It argues that contrary to the controversial positions defended by these scholars against a regime of an unlimited right to health care, a right to an unlimited right to health care should be embraced by the government because of the enormous financial commitment among patients who are already traumatized by their health challenges. The paper concluded that any other arrangement different from a right to an unlimited right to health care is a threat to citizens' right to life.

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<sup>27</sup> J.S. Mill, "On the connection between justice and utility" in Sher G. (Ed) *Utilitarianism*, (U.S.A: Hackett Publishing Company, Inc) 1979, p. 44.

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