

Health in a *fair* health system: is it possible a new justice?

Lorena Forni

The World Health Organization (WHO) in the World Health Report 2000 – Health Systems: Improving Performance carried out the analysis of health services' performances of efficiency and quality of 190 member states, finding that Italy has the second best healthcare system, after France. The authorities involved in the management of health resources considered this valuable and prestigious acknowledgment as a source of satisfaction. Nevertheless, we should wonder whether nowadays the Italian health system can still be estimated as one of the best worldwide or if new trends are being outlined together with the constant request to limit public sector spending.

It is impossible to reply to the first question on the base of further data provided by the WHO since no similar documents have been published after the World Health Report 2000, probably due to the intense debate that it has originated. A different consideration can be formulated with regard to the perspective that emerges from the analysis of the Italian health system if compared to the American one, considered as another important model of health services distribution.

As a matter of fact, the reconsideration of health care has a strong bioethical and legal relevance when we take into account different possible ways of promoting and protecting health. For the sake of clarity, it has to be anticipated that health has a different connotation in the European context, especially in the Italian one, respect to the American background. In fact, while in the Italian judicial system *health* is qualified as a fundamental right, in the USA health is a good that depends on the individual's wealth and income.

Thinking about models of health services distribution, we notice a first meaningful association of terms examining the binomial justice – health. Hence, the first step is to clarify the different meanings attributed to the principle of justice regarding healthcare issues. The most popular definition, such as the definition proposed by H.T. Engelhardt jr., considers fair every clinical practice realized implementing health policies that guarantee equal access to health care (Engelhardt 1986).

If we consider this definition exhaustive, we should believe that the principle of justice plays a central role and that it is a precise and uncontroversial guiding principle that can be used to bring an end to most of the healthcare policies and legal issues. However, this definition seems vague and ambiguous whereas strategies able to affect on clinical practice need to be identified in order to determine suitable ways of distributing resources and to guarantee equal access to health care.

In this paper, a different redefinition of the principle of justice with regard to healthcare issues is proposed, moving from a critical consideration of Amartya Sen's theories. Going beyond traditional theories and 'classic' definitions, justice has been redefined as the principle that considers ethically justified every clinical practice, which is realized by implementing an healthcare policy that guarantees individuals' equal access to resources, whereas the evaluation of what is worth doing, being, or *using* contributes to determine equity itself.

Another important aspect that needs to be taken into consideration concerns the analysis of different models of healthcare systems in light of the respective qualification of 'health'. The substantial ethical-legal difference that characterizes 'health' is reflected on the concrete procedures of goods and services distribution, especially on the different healthcare models, that will be subject of bioethical analysis in this paper.

The fundamental question is about which is the *fair* health care to be requested by citizens and to be provided by governments. This question is strictly linked to another issue: which is the preferable idea of justice in healthcare amongst those available in the current debate?