

Understanding Triage: Three Sorts and Cases

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I. Introduction

The year is 1962. You are an inhabitant of Seattle, Washington and a successful banker. Your local hospital is one of the first at which proven, artificial kidney or "hemodialysis" technology has become available. The technology can save the lives of patients with kidney failure. But there are other relevant facts. Its capacity is highly limited, i.e., it can accommodate only five patients per week. Its use is costly, i.e., approximately \$30,000 per patient, per year. And the hospital will not be able to afford another for at least three to five years.

You have agreed to serve on a special committee at the hospital. Also on it are a lawyer, a labor leader, a member of a religious order, and two physicians. At the first meeting of the committee you learn that twenty patients with kidney failure have sought hemodialysis treatment at the hospital. You also learn that on medical grounds, it has been determined that:

- a) five of the twenty patients are so ill that they would soon die even with the treatment;
- b) five of the patients would recover even if they remained untreated;
- c) ten of the patients have a roughly equal chance to survive but only if permanent treatment is begun immediately.

Your committee is asked to narrow this final group of ten down to five so that it will not exceed the capacity of the available technology. You are given the following information about the candidates.

- (1) garment worker, male, 55, lives in New York City, supports his sickly and aged parents, and grand aunt and uncle;
- (2) unemployed elementary school teacher, female, age 32, separated, three children, on welfare;
- (3) child, male, age 2;
- (4) a physician at the hospital and close to a breakthrough in cancer research, female, age 28, single;
- (5) navy admiral, male, age 60, married with ten children;

(6) a trustee of the hospital whose gifts of money and influence have made the construction of the hemodialysis unit possible, female, age 30, unmarried;

(7) accountant for advertising agency, male, gay, age 45;

(8) teenager, gender not indicated;

(9) utility infielder for a professional baseball team, male, age 37, divorced, no children;

(10) philosophy professor at a community college, male, age 40, married with one child, wife is expecting.

You are told that the names of the members of the committee will be kept confidential to protect its decisions from political, personal, and economic pressures. You are also told that terms on the committee will last for approximately five years.

After brief discussion, the committee decides that its first responsibility is to "decide how to decide" the matters of life and death with which it must deal. Each committee member will give an opinion and offer arguments for it. Then the discussion will begin.

Each of the other committee members has given an opinion and stated arguments for it. Now all eyes and ears are focused on you.

What would your decision on "how to decide" be? What kinds of arguments would you use to convince the other members of the committee? What kinds of considerations are relevant to the answering of this question? If your opinion were accepted, whom, from among the ten people listed, would be selected for hemodialysis, would be given a chance of living? Do you want further information from the hospital staff about the candidates for treatment? Why? Now, if possible, discuss your opinion with your fellow committee people. If this is not possible, how do you suppose the discussion with them will develop?²

What we have here and what you have been asked to wrestle with is a classic situation of "triage."³ There are a number of different kinds of triage situation. The emergence of this one is related to: (1) the occurrence of the scientific and technical innovations which made the construction of hemodialysis technology possible and, (2) the great expense of producing it and using it in medical contexts. Again, if not all triage decisions become necessary because of new technological advances, they all share a similar nature and conditions and raise moral questions that are difficult and complex.

Thus, this essay's purpose is to clarify and reflect upon the nature and conditions of triage and the morality of the decisions it entails. Such a task is especially important because none of us is immune from participation in the consequences and/or execution of triage decisions. To advance these purposes, what follows proceeds in four steps:

First, the nature and conditions of "triage" will be analyzed in abstract terms. In this context, we will argue that triage decisions involve a "first" and "second" "sorting." Again, primarily in the context of the "first sort," we will briefly bring out some of the other classic, concrete settings of triage decisions.

Secondly, how the concept of triage has been or could be applied to the "world food situation" will be brought out. But then it will be argued that its application, at the present time, is a mistake.

Thirdly, the perplexing ethical questions raised by the "second sort" will be taken up. Such questions are not alien to the reader. They, no doubt, were touched upon while s/he was role-playing the member of the "Seattle committee." Here these questions will be addressed by reviewing the dispute on the triage issue as it has divided exponents of important if divergent ethical positions within philosophy. Thus, we will survey the arguments that divide the ethical "utilitarian" Marc Basson, the position of the "deontologist" James Childress, and the "mixed" ethical position of Nicholas Rescher. A brief criticism of their views will then be presented as well as a sketch of this author's proposal for how to "resolve" the issues which divide them.

Fourthly, the example of hemodialysis with which this essay began will be returned to briefly. But this will be done in order to question the relationship between the complex "macro-allocation" decisions by which society distributes funds for (scarce) resources and the troubling "micro-allocation" decisions involved in the "first" and the even more problematic "second sort." Again, such "macro-allocation decisions will be referred to as decisions of the "third sort."

II. Triage Decisions and the First and Second Sorts

The French word "trier" means, literally, "to pick" or "to cull." It entered English as "triage." In this form it came to mean either the process of "sorting" agricultural products or the lowest grade of such products, e.g., broken coffee beans.

The further senses which the word has taken on are what interest us here. Thus, "triage" has come to mean both a kind of decision and the situation or conditions which call it forth. First, then, "triage" involves a human decision about how to allocate life-saving resources. But, secondly, it implies that the situation of such a decision is one of such scarcity resources in question that: all who are in need of them simply cannot receive them; at least some will die or be seriously harmed for want of them. In its new sense, then, "triage" retains its French root meaning as a kind of "sorting" or "culling." But now the individuals to be sorted are not stores of agricultural produce. They are the prospective recipients of the scarce, life-saving resource. And what is being determined is not the grade and, hence, the sale price of a good but, in the extreme case, who shall live to see another day. But there are usually two cases and, therefore, two stages of triage here.

Initially and more generally, triage describes a decision to sort prospective recipients of the scarce resources into one of three groups. They consist of:

- a) The group of those who cannot be expected to survive even if they were to receive the resource;
- b) The group of those who would recover even without the resource;
- c) The group of those who can be expected to survive on the condition that they receive the resource immediately.

This preliminary division of potential recipients into groups a)-c), we shall call the "first sort." Such a "first sort" represents the first stage of triage. In our example of the "Seattle Committee," above, the "first sort" into groups a)-c) was made on medical or scientific grounds alone, i.e., only ten patients out of twenty needed the scarce resource to survive. One assumption of such a "first sort," then, is that it cannot be rational or fair to let all who would die succumb when some could be saved or those who will recover through other means, when this is at the cost of the resource which could save some. Finally, let us assume for the purposes of his paper, that from a moral point of view, the three-fold, a)-c) division laid down by the "first sort," is relatively unproblematic. Again, we say this because such a division: (1) seems to follow spontaneously and rationally from the nature of the situation described; (2) rests primarily or exclusively on medical and scientific grounds.

But once some approximation to a first sort has taken place, there is usually a subsequent and more specific decision, and this brings us to the "second stage" of the triage decision. Again, because of the extraordinarily troubling and complex questions this case raises, we cannot assume that it is even relatively unproblematic. Thus, the "first sort" into groups a)-c) above, does not tell us:

- 1) How, when there are more individuals in category c) than can get the scarce resource needed to survive, we are to decide who shall receive it?
- 2) Who is to decide this further question and take responsibility for its execution?

Again, we will say that when a human subject or community makes a triage decision which answers these two difficult questions, the result is a "second sort." The second sort is so problematic because once made, some who could have lived will, in fact, die or suffer great harm.

Finally, there seem to be at least three recurring contexts in which triage decisions take place.

First, as said, it was the expense, limited capacity and, therefore, the short supply of an innovation in man-made, hemodialysis technology which generated the situation which the Seattle Committee was instituted to solve. One can imagine similar medical situations arising in the wake of the perfection, by scientists, of: (1) other forms of artificial organ

technology, e.g., the artificial heart; (2) technology for heart, lung, and other transplants; (3) expensive drugs for the treatment of diseases, etc.

Secondly, warfare is a classic setting for triage decisions. Thus, the battle-field divisions of the wounded into the "fatally" wounded, the "walking" or only superficially wounded and the "seriously" wounded, correspond to our a)-c) classification.

Finally, disasters of either a man-made or natural kind are sites of first and second sort triage decisions by the relief workers, paramedics, mobile units, and physicians who arrive on the scene. Such sites could include those of a building collapse, a ship- or train-wreck, a fire in a crowded restaurant or hotel, a famine or drought in a third world village, an earthquake or storm, a terrorist raid, etc. Again, the quantity of medical care available in the two previous cases will determine whether a second or only a first sort is necessary.

III. The Problem of Feeding Humankind: A Triage Situation?

Some have argued that the contemporary, "international food situation" is or is fast approaching one in which the triage concept must be applied. In this situation, the prospective recipients are the "underdeveloped countries" of the world. The prospective suppliers of scarce resources are the "developed countries." First, the scarce resources are:

(1) The limited food surpluses produced by the "developed nations;"

(2) The financial, economic, domestic and political institutions, as well as the social infrastructures, e.g., roads and developed waterways, communications networks, etc., which make it possible for the population of a nation to feed itself and sustain a life-style in which birth rates are not excessively high;

(3) The educational institutions necessary to bring about, hand on, and expand the competencies among its citizens which eventuate in (2) and, eventually make the need for (1) superfluous.

Again, the underdeveloped countries are to be divided into three groups paralleling divisions a), b), and c), above.

First, some underdeveloped countries are extremely far behind in building up the institutions and infrastructures described in (2) and (3), above. Thus, for the indefinite foreseeable future they must remain entirely "dependent" upon the ever increasing, mass foreign aid of the developed countries (cf., (1), immediately above). Again, this growing dependence is unavoidable if they are merely to avert immediate famine, mass starvation, etc. These underdeveloped countries correspond to group a), above.

Secondly, there are some underdeveloped countries whose investments in (2) and (3) have been considerable. But this has made them relatively self-sufficient, set them on a path of growth, and made them capable of absorbing limited setbacks in their ability to

feed themselves without requiring foreign assistance. These correspond to group (b), above.

Thirdly, there are some other underdeveloped countries whose investments in (2) and (3) have not been sufficient to avert hardship and famine. But, they could, in the near future, attain self-sufficiency if tided over with contributions of food (cf. (1), immediately above), venture capital, training, etc. (cf. (2), immediately above). These correspond to group c), above.

If this correctly describes the contemporary situation, then, it is argued, the developed nations of this world are faced with a "first sort" choice between two irrational situations, two evils. Both pertain to group a), above. The first and "lesser evil" between the two, would be the choice to allow the populations of underdeveloped nations falling into group a), above, to starve. But, the other, and "greater evil" would be the choice for generosity! the choice to go on feeding the nations which fall into group a), above! This choice represents the less beneficial option because the countries in this group are "unsalvageable." They would draw on the surplus and then the necessary resources of the developed nations. And because their needs are both so great and ever increasing, they would go on drawing on them until they threatened, first the developed nations and, then, the entire human species with the danger of food shortage, famine and, therefore, ruin and destruction. For the good of humankind, then, we must choose the lesser evil: aid must only be granted to the countries falling into group c). Again, there is the further question of the even more problematic "second sort," of how aid is to be allocated when it is sufficient to avert tragedy in some out not all the nations within group c).

In reply, we would argue that: (1) the facts about the contemporary "food situation" do not support the previous interpretation in terms of triage; (2) the developed nations are not at the present time nor will they in the imminent future be faced with the tragic, either/or choice described above. And we take up these points, as well as our own recommendations, under the following five headings.

First, then, the contemporary world economy is marked by global "interdependence." The underdeveloped nations depend upon their developed counterparts for food, investment, etc. But the developed nations are highly dependent upon their underdeveloped counterparts for natural resources, markets for their goods, and cheap labor. Thus, it is estimated that in 1985, 80% of U.S. needs for nickel and tungsten, 90% of its needs in aluminum, and even higher percentages of its needs in chromium, manganese, and tin were met by underdeveloped nations. Again, the General Electric Corporation sends components to Singapore where they can be assembled for wages t-jell below a dollar rather than an Ashland plant where wages are more than four dollars per hour. And International Telephone and Telegraph has over 425,000 employees in over 70 countries. Again, the United States remains a net exporter of food and grain and, until recently, of televisions and automobiles. But, then, it would seem that the developed countries could not abandon their underdeveloped counterparts without undercutting the conditions of their own welfare and, at a certain point, their own survival.

Secondly, the developed nations, e.g., about 6% of the world's population, use up a much larger percentage of the world's natural resources than the underdeveloped countries, i.e., about 40% of the total. But this raises such questions as: who has a right to the natural resources of the planet? Have the developed nations been able to accelerate and sustain their own growth only by unfairly exploiting the cheap resources and labor of the underdeveloped countries? How might or could such resources be distributed in a just fashion? Don't the developed as well as the underdeveloped countries owe each other such a just distribution? In this capacity, and independent of any theoretical discussion of these matters, the reader might note that the world market has begun to adjust prices in the direction indicated. Thus, in the early seventies gasoline cost 20 cents per gallon at the pump.

Thirdly, it is estimated that during the 1960's world food production rose by 2.8% while world population rose at a slower rate, about 2%. Again, in the 1970's world food production slowed to an increase of 2.4% yearly. But world population growth also slowed to an estimated 1.8%. This does not, mean that there is no food problem in the world. One need only think of the tragedies in Bangladesh, Ethiopia, etc. But despite the preceding tragedies, these figures suggest that the world is not yet approaching universal famine, that diagnosis of a triage situation of the second or first sorts, with their difficult, tragic choices is, at least, premature.

Fourthly, the fact that world famine is not imminent heightens the responsibility of all but especially the developed nations. This responsibility is to foster global well-being and, therefore, the forms of international cooperation that will avert the onset of the triage situation. Underdeveloped nations must invest their limited surpluses wisely- and with the long-range future in view. They must definitely receive international support when they do so. Priority, then, will be given to building up the relevant financial, social, domestic, agricultural, and educational institutions and viable infrastructures. Priority must not be given to financial speculation in western financial markets. Advanced nations must accelerate this process by contributing: new, relevant forms of agricultural technology, hybrid and bio-technologically engineered grains, etc.; just payment for resources; encouragement of the life-style changes that lead to lower birth-rates; information and teaching resources; an example of rational international action based on persuasive arguments, appeals to international welfare and justice and not to threats of force, etc. Again, their contributions in these areas must be specifically tailored to the local needs, the level of development and the real, proximate possibilities of the nations to be aided. If they are not, they will come to naught.

Finally, the problem of adequately feeding everyone in this world is complex and long-term. Again, none of us will be able to avoid the physical and/or moral effects of ignoring the problem or allowing it to be handled badly. Thus, the responsibility rests on all of us and, especially, the educated and the leaders to: (1) think about and find solutions for this problem now and not when it is too late to avert the need for triage decisions on a global scale; (2) cooperate with the policy implications of these solutions once they have been found.

IV. Responsible Decision and the "Second Sort"

Who shall live when resources are too scarce to accommodate everyone in the c) group? When "not all can live?" when decisions of the "second sort" become unavoidable? Again, who shall decide these questions? Our Introduction, above, asked you to try to answer them. To advance the discussion further, we would reflect upon and, finally, criticize several classical kinds of answers to these questions.

A. Utilitarian Response: *Marc Basson*

For the utilitarian, the "first principle" of ethics is that all human beings act for the sake of gaining pleasure and avoiding pain. Thus, human choices are to be judged good or bad according to their pleasure-enhancing and pain diminishing "consequences." Such consequences, the theory holds, can be measured quantitatively. For this reason, the individual is able to calculate rationally the greatest balance of pleasure over pain, of benefits over costs and, thereby, determine what is to be done, etc. Again, if pleasure is identified with happiness, then the point to human deliberation and choice is to lead to the actions which bring about the greatest possible balance of "happiness." On this view, then, human beings are, basically, selfish and "self"-interested by nature, since they are obliged by virtue of being human to maximize their own "happiness." But the utilitarian argument does not end there. It claims that a corollary of its first principle is that the individual must consider the "social utility," the "social consequences" of his/her actions. Again, these consequences must be considered so that the greatest balance of pleasure over pain can be produced among members of the individual's community. Why should the self-interested utilitarian consider the good of the community? In general, the answer given is that the "cooperation of others" is a "means" through which the individual can attain a "greater balance" of happiness. Thus, the individual is committed to considering the "social utility" of his/her actions for essentially selfish reasons, i.e., s/he needs the other to further her own ultimate interest in happiness. With this corollary sketched, the criterion of a moral act or public policy can be stated in more general terms. Thus, the morally good act is that one which produces "the greatest good," e.g., the greatest net balance of pleasure over pain, "for the greatest number."

The utilitarian, Marc Basson, argues that scarce, lifesaving resources are "social" in character, are, in fact, "social resources." They are social resources because they are predominantly invested in, built and staffed by grants from government and charitable foundations. He would side with our last author, Nicholas Rescher, here. And Rescher argues that if decisions of a "second sort" are to be made, then those who make` them:

Should certainly look upon . . . [themselves] as... trustee(s) for the social interest . . . [but then they are] clearly warranted in considering the likely patterns of future services to be rendered by the patient for nation, etc.] In its allocation of . . . [scarce, life-saving resources], society "invests" a scarce resource in one person [or nation, etc.] as against another and is thus entitled to look to the probable prospective "return" on its investment.

But what sorts of factors should be taken into account if a "second sort" is called for and "social utility" is to be maximized? if, in its choices, society is to look after the maximum "prospective "return" on its investment?" How and by whom should such maximization factors be determined? Basson argues for "committee determination" of both social utility and actual decisions on allocation. But such committees should not merely consider what the citizenry of a nation or set of nations desires at a given moment. Rather, the committee should try to make an "objective" determination of what decisions are really in the "social interest." To do this, it should take into account--the best economic and social predictions about what the nation "needs" and will need; the testimony of experts; the need to correct and compensate for possible prejudices in public thinking; the long term character of its tenure, e.g., its need to develop in its apprehension of what is socially useful, change its factor analysis when what is useful to society changes, correct its errors in decision when they are made and this is possible, etc. Again, Basson cites Leo Shatin's list of factors relevant for committee consideration if its decisions are to be "objective" from a social utilitarian perspective. Thus, social utility factors for determining candidacy for scarce resources would include:

- (1) Economic productivity;
- (2) Age and number of productive years left;
- (3) Marital/family or public status and responsibilities; (4) responsibilities for the welfare of others;
- (5) Prognosis for a full recovery;
- (6) Relations and dependents, e.g., children, friends, personal relations in the community, etc.;
- (7) Society's need for the individual's services;
- (8) Potential contributions to the cultural life of the community, e.g., music, painting, poetry, etc.;
- (9) Past contributions insofar as they are an index of future ones.

Again, there will be difficulty in determining how to weight the relative strengths of these factors, e.g., is factor (7) more important than (9), or (3) than (4)? There may be uncertainty about: when to add or delete factors; how to predict such things as future productivity; how to apply the criteria to decide particular cases, etc. Still, Basson would argue, difficulty and uncertainty are not equivalent to impossibility. And this is especially so when a long-term commitment has been made to learning the best means of doing so and to correcting errors.

Three final points must be made here:

First, some who are taxed or otherwise contribute to fund the development and institution of the scarce resources in question will either (1) never need them or (2) not fare well as candidates for them, given the ten factors specified or some other set of factors. Although this is true, Basson argues that these individuals will still benefit from the "social utility" method of making second sort decisions. The benefit springs from the greater "payoff" to all members of the community brought about by allocating scarce resources on social utility grounds, i.e., those selected in this way will be highly productive, contribute "most" to the life of their community.

Secondly, Basson points out that no matter what selection method is decided upon, those who have been passed over in the second sort will feel terribly and be difficult to care for. Still those who are selected on social utilitarian grounds may at least feel better about themselves because they are convinced that they really deserve to live.

Thirdly, Basson concedes that the use of the social utilitarian calculus in situations of the second sort may yield "roughly equal" tallies of benefit and burden in the case of two, three, or even in many candidates for the scarce resource in question. Under the circumstances, he acknowledges that to select a recipient, resort may have to be made to "chance," e.g., to a "lottery system," etc. Again, he does not indicate how "roughly" equivalent such evaluations must be before such further, non-utilitarian considerations should be introduced.

B. Deontological Response: James Childress

Immanuel Kant is the father of "deontological" ethical theories. Briefly, he believed that the "practical reason" of human beings must ultimately acknowledge certain "postulates" of the "moral law" or, as he called it, the "categorical imperative." In a first formulation, Kant claims that the categorical imperative obliges human beings only to act on principles that can be "universalized." Thus, promise-breaking violates the categorical imperative because were it universalized, it would render the very notion of promise-making and, therefore, any society based on trust, impossible. In a "second formulation," the imperative obliges unconditional "respect for human persons." Such respect requires that one treat the other: (1) never merely as a "means" to one's own or society's "utilitarian ends;" but (2) only as an "end in one's-Self," as a bearer of ultimate, not-to-be-calculated-with, "value." Again, it would be on such an imperative that any human appeal to "justice," "equal rights," or even "equal opportunity" would, ultimately, depend. Finally, Kant justifies his claims by the argument that human beings cannot live moral lives singly or in community, without conforming their choices to the imperative.

James Childress approximates to the deontologist's position when he reminds us that the "lives" of human beings hang in the balance in situations of the second sort. Goods and the unequally developed talents of people are properly and adequately quantifiable on social utilitarian grounds. Thus, we distribute money unequally both to people with different or more highly refined talents but also for different, non-human

"goods." But, he claims, it is both practically impossible and ethically wrong to assign value to the lives of human beings in the same way.

First, it is practically impossible to use utilitarian criteria to assign value to human beings. This is because there is no guarantee that the decisions made either by a committee or even the voting majority of a community will be free of prejudice and/or arbitrariness. Thus, as noted, an actual triage committee was formed at Seattle's "Swedish Hospital" in 1962. Some noted authors have argued that there was a prejudice towards "middle class values" in their decisions that such matters as marriage, cub-scout leadership and regular church attendance figured in their decisions. Thus, one commentator has been led to say that "the Pacific Northwest is no place for a Henry David Thoreau," i.e., someone with an unorthodox life style, "with bad kidneys."¹ Furthermore, suppose, for the sake of argument, that Leo Shatin's list of relevant, utilitarian factors was agreed upon in an unprejudiced manner. Exactly how ought the factors on the list to be weighted when decisions have to be made? Shall the promising poet or painter, or architect or dentist survive the second sort? Finally, second sorts made on utilitarian grounds will have to rely upon estimates of individual's future "contributions" to society, etc. But how accurate are such estimates likely to be in any given case? How accurate are they in parallel cases when it comes to predicting success or failure in college, on a job, etc.

Secondly, it is also ethically wrong to assign value to the lives of human beings on utilitarian grounds. It is ethically wrong because it reduces the value and dignity of human beings to that of the social roles, relations and functions which they occupy and discharge, to their usefulness as "means" to others' satisfaction. But as human beings, we all have an equal right to life, an equal right which social utility criteria necessarily violate. Again, Childress goes on to argue that the doctor-patient relationship [and, by extension, that between the developed and underdeveloped nations?] is one that is based on trust. In this context, trust implies the doctor's [the developed nations'?] at least implicitly operative pledge to do everything within his/her power to save the patient. If utilitarian considerations are allowed to invade that relationship, the patient will inevitably recognize that s/he is being treated as a mere "means" to social, scientific or other ends. But this violates the doctor's implicit pledge and must inevitably destroy the trust which makes medicine as a profession [as well as just international relations?] possible.

But how, then, is the principle of respect for persons and, therefore, the rights of each member of a group subject to the second sort to be preserved? Childress argues that this right is preserved if each individual's "equal opportunity" to secure the scarce resource in question is secured. But equal opportunity is itself best preserved by basing second sort selections on chance, i.e., a lottery system or a system of first come, first served.

But four further points should be made here.

First, suppose that the "committee" which had to "decide" the criterion to be used in making the second sort was the community as a whole. And, following the reasoning

of John Rawls, suppose that each of its members: (1) was ignorant of his/her own as well as others' talents, capacities, i.e., their social worth; (2) was able to "calculate" rationally what was in their best "interest." But even here they must opt for chance. And they would inevitably do so because they would have to acknowledge that as a criterion, it alone guarantees each individual's equal opportunity to the scarce resource to be allotted by the second sort.

Secondly, Childress claims that the psychological stress caused by rejection in the second sort would be easier to handle if the selection were based on chance. And his argument for the claim is that as a reason for rejection, the judgment that an individual is of inadequate social utility, of inadequate social value to the community would be, literally, unbearable.

Thirdly, Childress argues that basing the second sort on chance removes: (1) the need for decisions by committee and, therefore, (2) the burden placed on human beings to "play God" and decide matters of human life and death. Again, Childress notes that on his proposal, even "the rich" will not be able to avoid their confrontation with chance when it comes to the second sort, that even they are only being guaranteed an equal opportunity to the scarce resources in question. But he adds, somewhat cynically, that this may further motivate their investment in the removal of the scarcities which would periodically make their exposure to the second sort necessary in the first place.

Finally, Childress acknowledges that some exceptions to his proposal might have to be made. Conditions of such an exception would be that the individual is: (1) indispensable to the life of the community; (2) so indispensable that we would be willing to take back the scarce resource already allocated to some individual. Thus, in times of war, it might be necessary to except a scientist working on research essential to national survival, the president of the country, or a key diplomat. But what of a scientist "on the verge" of a cure for cancer or kidney disease? or a diplomat close to an agreement on international arms control? Childress offers no further clarification of when social utilitarian criteria are to be allowed to supercede chance.

C. Mixed Response: Nicholas Rescher

In his "The Allocation of Exotic Lifesaving Therapy," Nicholas Rescher first attempts several refinements on criteria of first sort inclusion. But he then divides the second sort process into two stages, what we will call a "preliminary" and an "end" stage. And it is this division which this essay must now briefly interpret.

First, Rescher specifies five criteria which must be taken into account by committees, when they are "deciding how to decide," i.e., constructing systems on which to base preliminary, second sort selections. Their grounds are predominantly utilitarian but they include a deontological component. These criteria include:

- (1) Relative Likelihood of Success--thus, when possible, individuals whose conditions are reversible, who will, therefore, not need life-long application of the scarce resource should be favored;
- (2) Life Expectancy--thus, those who because of age or other factors, e.g., a second debilitating illness, would only probably enjoy a short future life, should not be favored;
- (3) The Family Role Factor--thus, those who fulfill many responsibilities towards others in the society and, therefore, have many dependents, e.g., an unwed mother of nine children, should be favored over those who do not;
- (4) Potential Future Contributions--thus, those who, by talent, training, past record, etc. are likely to contribute most to society's future and those who were they to die, would leave behind the greatest burdens, should be favored;
- (5) Past Services Rendered--thus, on grounds of justice and equity, these must be taken into account even if no further social utility accrues to society because of selection on their basis.

As said, Rescher claims that any adequate system for second sort selection must take the preceding five factors into account. But, he adds that how they are to be taken into account cannot be specified in "general terms". And if he suggests that equal weight should be given to factors (1)(2) and (3)-(5), he goes on to claim that the outcome of such a tally should not "dictate" committee policy but only "guide selection." Thus, one of his section headings acknowledges what he calls "The Inherent Imperfection of Any Selection System."²⁰ Finally, Rescher indicates that any application of the system based on the preceding five factors should narrow but not eliminate the gap between those in need and those who can be saved. Thus, at the close of the "preliminary" phase to the second sort, our initial group of candidates will have been narrowed to one in which: (1) no major reasons for preferring any one to any other can be found; (2) more still need the scarce resource in question than can be accommodated.

Secondly, Rescher argues that to complete closure of the gap between need and want and "end" the second sort, an element of chance should be introduced into the selection process. But this should be done through lottery selection from among the group constituted by the preceding, "preliminary" phase of the second sort. Again, Rescher claims that there are three major advantages to introducing chance into the second sort procedure. With Childress, he argues that it will vitiate some of the "awesome burden" on members of the selection committee. He also, familiarly, contends that it will make matters easier for rejected group members. But he adds that precisely because all criteria-based selection systems are "inherently imperfect," that chance should be introduced in order to: (1) rule out the appearance that selection follows from an automatic, mechanical and unerring process and, (2) therefore, acknowledge such "imperfection." Thus, Rescher writes that:

Outright random selection would . . . seem indefensible because of its refusal to give weight to [utilitarian but, also other deontological] considerations which, under the circumstances, deserve to be given weight. The proposed procedure of superimposing a certain degree of randomness upon the [five] rational-choice criteria [mentioned above] would seem to combine the advantages of the two without importing the worst defects of either.

Still, we must add that, as it stands, Rescher's way of including both utilitarian and chance elements into his selection system must prove ultimately unacceptable to, respectively, the purely deontological position of Childress and the fully utilitarian position of Basson.

D. Critical Response

In footnotes to the text cited, above, Rescher quotes from F. M. Parsons. I would cite two of his citations.

...other forms of selecting . . . [candidates for scarce, life-saving resources] are suspect in my view if they imply evaluation of man by man. What criteria could be used? Who could justify a claim that the life of a mayor would be more valuable than that of the humblest citizen of his borough? Whatever we may think of individuals none of us is indispensable;

On the other hand, to assume that there was little to choose between Alexander Fleming [e.g., Albert Schweitzer, Mother Theresa, etc.] and Adolph Hitler . . . would be nonsense, and we should be naive if we could not be influenced by their achievements and characters if we had to choose between them.

But the point to my citing of Rescher's source is not to support Rescher's position. Rather, it is to put the question of the second sort on another "basis." For the point is that any or none of the preceding three approaches may be relevant in any given triage situation. And this is the reason why both Childress and Basson admit exceptions to their principles and Rescher acknowledges the imperfection of any abstract system of principles. Rather it is only the "good man," the "good woman" who, in the concreteness of the given triage situation, will be able to decide what and which approach is relevant and ought to be followed, how and why the relevant, second sort decisions should be made. Thus, we should compose our triage committees of such people. But who is the good man/woman, the one with the power to judge, to decide such difficult issues? If, like Basson et. al., I cannot give an exhaustive set of criteria, I can perhaps specify some of his/her qualities in order to foster our own more concrete identifications. The good man or woman, then, will be one:

(1) whose life has been implicitly or explicitly committed to:

A. observing the following five precepts--be attentive, be intelligent, be rational, be responsible, be loving;

B. testing and correcting his judgments and decisions in faithfulness to:

1) the preceding precepts;

2) the ongoing series of questions which his claims to know and his action in the world raise;

3) the good points raised by "others" in his/her discussions with them about these issues;

C. removing every form of bias and prejudice from his living, again in faithfulness to the preceding five precepts, etc.;

(2) who has gradually learned in this way to deliberate and act well:

A. upon matters of human concern generally, i.e., upon issues such as-- what constitutes a human life worth living; what it means to be a friend to someone; what justice is and what it entails in one's own life and in my dealings with other, etc.;

B. within concrete triage situations. But this will involve further areas of learning such as:

1) one's "appropriation" and probable "criticism" of the "common sense" beliefs and values of people in the society and the situation;

2) one's "appropriation" of the relevant scientific and technical knowledge which bears on making a decision in the situation, etc.

Such a person or a committee of such people in dialogue, would be equivalent to a living, growing, self-correcting "criterion" for the second sort. Such a person, such a committee, will have the powers of insight, judgment, and decision necessary to determine: what ethical principles approximate to but can never fully capture; when and how to mix or not mix utilitarian, deontological, chance and/or other considerations; when exceptions ought and ought not to be made in any case; when what is needed is further research into the relevant questions which the situation raises, etc. Again, if "judgments" and "decisions" so "based" are not always capable of being rendered in terms of abstract principles, they are nevertheless not merely arbitrary. For they are informed by reflection upon and repeated criticism of their own and their society's past performance. And their ultimate warrant-is the ongoing commitment to justice, virtue, and wisdom of those who make them and which (1)-(2), above, are designed to represent. Again, in the best but, perhaps, unrealizable case, attempts should be made to: (1) form groups from among the local, affected triage candidates themselves; (2) foster both communication among them and some approximation to the attitudes of intelligence and responsibility that would qualify them to make such decisions among and for themselves; (3) thus, offer these groups the opportunity to constitute the triage committees in their own cases. Where such groups could not be formed or once formed could not decide among themselves and for themselves, decision would recur to the

regular committee. And it would be expected that at least some of the members of these committees would be drawn from qualifying members of other, similar groups of such candidates.

V. Triage and Micro- vs. Macro-Allocation Decisions

In 1972, a rider mandating Medicare reimbursement for kidney dialysis technology and transplantation was added to HR 1, a major bill amending that year's Social Security Act. Passage was predicated on the conviction that lives could be saved and that costs would be and remain low. The program the bill mandated remains in effect. It has virtually eliminated the problem of deciding second sort issues related to renal failure, issues which made the Seattle committee necessary and formed the backdrop of our introductory, intentionally dramatic example of triage.

But., first, cost estimates even during the first year were three to seven times too low. Fourth year costs were, approximately \$500 million. And by 1987, 85,000 kidney patients were being serviced under the program at an average individual cost per patient, per year of \$22,857, a total cost of \$2.4 billion, and a projected annual increase of 5%. Again, the late '80s, unlike the early '70s, have been years of enormous and ever mounting federal budget deficits. Those deficits have been forcing Americans to realize what has always been the case--which their resources, though great, cannot satisfy the potential infinity of their needs. Thus, it is now commonly recognized that the government cannot simultaneously keep taxes low, generate an expanding series of offensive and defensive weapons systems, and continue to fund domestic and social welfare programs at current level. But, these recognitions force the raising of the question of whether, when American society is looked at as a whole, the \$ 2.4 billion spent on kidney patients--is doing more well than other of its possible uses; has been allocated fairly or "justly." Again, kidney patients now constitute 1/4 of 1% of Medicare beneficiaries. Yet they consume over 4% of the total payments made by the total Medicare program. But this again raises the question of justice within the narrower context of Medicare disbursements and annual allocations of federal funds to its programs.

Secondly, a just allocation of resources implies an "equitable" distribution of: (1) the "goods" society can dispose of, and (2) the "burdens" which must be borne to generate them. Such goods can themselves be distinguished into (1a) "particular goods" which are "consumed" and which contribute directly to the individual's "standard of living," and (1b) "capital goods" which are not "consumed" in this sense, but are used to generate the recurrent flow of desired, particular goods. Thus, to produce the desired particular goods, e.g., the relevant knowledge in the biological sciences, medical expertise, and a prototype of life-saving kidney dialysis technology, etc., may require long time intervals, and millions of dollars of investments in facilities, "manpower," medical and technical research, the testing and construction of mock-ups, etc. Again, the

"original investment" in the desired goods "pays off" at a still later date when, through further investments in equipment, education, and the setting up of new institutions, the desired goods can be "mass produced," i.e., distributed to all who need it. In the case of kidney dialysis, the first phase was concluded in the early sixties when Dr. Belding H. Scribner perfected hemodialysis treatment at the University of Washington in Seattle. The second phase of the preceding process only concluded its "pay off" in 1972 when its costs were assumed by the federal government under the Medicare program. But the situation has changed since 1972. Since then, technical advances in surgical techniques, immunosuppressive therapies, etc., have made heart and liver transplants practical realities. And these advances have again set the stage for the second or "payoff" phase in the investment process. Thus, heart transplants now cost approximately \$100,000 for the operation and another \$5,000 for yearly maintenance afterwards. Again, if there is a shortage of donors, still there are over 140,000 candidates for such heart operations per year. Should the federal government (and/or private donors) invest massively in the research and development of artificial hearts? Should it begin total funding heart transplants under Medicare? Assuming that under the circumstances, the cost of doing so is currently prohibitive, is it just to force second sort decisions in the case of heart or liver patients and not in the case of kidney patients? Should services be withheld or withdrawn from kidney dialysis patients to free up funds for patients who need heart or liver transplants? Again, gene therapy, magnetic resonance imagery, and interleukin II therapy are all expensive, potentially beneficial technologies. Is not the option to help kidney patients one which, in effect, "drains funds away" from their development? Or since kidney dialysis is life-sustaining but not curative, should it be phased out in favor of relatively in-expensive preventive and primary care programs designed to: identify and treat hypertension in adults--a major cause of renal failure? Again, myoclonus is a severe, almost totally debilitating nervous disorder which affects over 2,000 Americans per year. Its symptoms can be effectively controlled by the extremely expensive drug L5-hydroxytryptophan. But because of the small number of those afflicted with the disease, its great expense and, therefore, the great financial losses its production involves, drug companies currently refuse to produce it. Thus we have an instance of so-called "orphan drugs," and the failure of an initial investment to pay off for its potential recipients.²⁸ Is it fair to continue aiding kidney patients and would it be just to help the large numbers of cardiac, liver or even AIDS patients while ignoring the needs of this small group of afflicted patients who can be helped? Finally, do not all such real or proposed expenditures "drain resources away" from the "real" needs of society? needs which, were they met, would lead to major improvements in public health? I am thinking of such needs as--adequate education for every child; adequate housing; adequate and balanced, health-giving nutrition; the re-building of our cities, of our capital infrastructures, etc., etc.?

Thus, this essay has advanced from the "micro-" allocation questions implicit in the scarcity of needed resources, e.g., kidney dialysis technology and expertise, heart transplantation techniques, medical care on a battle field, food for famine-stricken third world nations, etc. To "macro-" allocation questions. Let us call such exceedingly difficult issues, questions requiring a "third sort." But questions of the third sort head for judgments of value and decisions on how society will: (1) set and execute priorities for

the distribution of the advancing, "gross aggregates" of its goods; (2) thereby inevitably create in certain areas, the scarcity/shortage situations within which the issues of a first and second sort will have to be raised, answered, and executed; (3) face its own "finitude," the limits of what it can and cannot do with respect to prolonging human life and diminishing human suffering. Again, to exceed, to have exceeded such limits will be merely to destroy whatever capacities there remain for addressing such problems. And to remain conservatively shy of them is to be irresponsible, unresponsive to the needs and potential future of human being and community.

But, then, "triage situations" do not come from out of the blue. They have histories. And those histories are in large part brought about by the "macro-allocation," or "third sort" decisions of the communities of which they form a part. These decisions pertain to how the finite, ongoing and complex "sum" of the resources, talent, energies, potential and actual investments, etc. of a community are distributed in the first place. Thus, the resources of a community may be large, but they cannot be unlimited. At some point "this" rather than "that" need of the community must be addressed. And it can be addressed well or poorly. But here lay the largely socially and historically determined seeds of the multiplicity of triage situations.

In conclusion, then, the micro-allocation dimension of triage situations, ultimately leaves its student no alternative but to take the broader view, the wider perspective.³⁰ It motivates one's study of the relevant histories of technical, economic, and political decisions of one's community. It recommends interpretation of them from the vantage point of the best economic, scientific, political and philosophic theories of the day. But to study history in this manner is, in large part, to consult the record of: (1) how one's community has addressed the problem of its own "finitude;" (2) one's community's attentiveness and/or blindness, intelligence and/or stupidity, rationality and/or irrationality, responsibility and/or irresponsibility in dealing with problems of the third sort; (3) how factors (1) and (2) have, in fact, brought about the situation in which micro-allocation decisions of the first and second sorts have become or will, inevitably, become necessary. Again, to study history in this manner is not something that can be done alone. It requires a community of like-minded inquirers. But the need for such study should not discourage. Rather, it should motivate commitment. And commitment would be to the precepts by which human beings, both individually and communally, and on both the micro- and macro-allocation levels, etc., can go on developing. But such development will yield community of commitment. It will yield the kind of community- which can maturely carry on the collaborative process of addressing adequately the historically situated problems which continue to confront it. And it would yield re-dedication to the precepts which fostered such community originally and continue to direct and sustain it-- be attentive, be intelligent, be rational, be responsible, be loved.

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