

**PART 3**

**PERSON AND COMMUNITY**

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### *Introductory Comments*

In 1516, Thomas More published his philosophical novel describing an ideal state on the island of Utopia. The book has two parts, one criticizing the unjust contemporary social and economic conditions, the other outlining an idealized society. Precisely the contrast between the two parts is interesting: the injustices of his own world in comparison to the glories of egalitarian Utopia; on the one hand a situation of commercial exploitation where greed for gain and accumulation of wealth in the hands of a few leads to indigence, oppression and malady; on the other hand the ideal state where private property is abolished, the means of livelihood are assured to all, and all citizens have perfect health.

Justice and injustice are recurrent themes in the history of ethics. More than two centuries later David Hume analyzed the origins of justice in *A Treatise of Human Nature* (1739). He argues that justice takes its rise from human conventions. These conventions are intended as a remedy to some inconveniences, resulting from two sources: certain qualities of the human mind, such as selfishness and limited generosity, and outward circumstances, such as the easy change of external objects and their scarcity in comparison to the wants and desires of men. These circumstances of justice are the peculiarities of the human conditions which at the same time facilitate and endanger human cooperation. Human nature, as Hume points out, can not subsist without the association of individuals; that association could never take place were no regard paid to the laws of equity and justice.

One of the central topics in bioethics is the just organisation of human life in general, and the fair distribution of goods in particular. According to several bioethicists it is precisely this topic that brought modern bioethics into being. With an increasing supply of effective technologies, the major question became: Who shall be saved when all cannot be saved? The case of dialysis for end-stage renal patients and resuscitation technology for patients with respiratory failure made the headlines in the early 1960s. However,

1980s, when rising health care costs necessitated allocation of scarce resources.

In 1912 the French sociologist Emile Durkheim proposed the concept of *homo duplex*. In a human being there are two beings: an individual being which has its foundation in the organism, and a social being representing the highest reality in the intellectual and moral order, viz. society. Man is a member of nature by virtue of being a bodily organism as well as a member of society by virtue of culture. This double aspect of the human being is the theme of the third part of this book.

In his chapter, Eugenijus Gefenas from Lithuania explicitly deals with issues of social justice in health care. Particularly for the countries in Central and Eastern Europe the basic question nowadays is which fundamental principles should guide the structure and organisation of the health care system. The precarious economic condition of these countries dictates to reform the health care system which until recently has been primarily based on the principles of equality and solidarity. However, Gefenas shows that the present-day necessity to fairly distribute resources is not merely the consequence of a weak economic situation. Scarcity is a relative phenomenon. As Hume already mentioned, scarcity is related to the wants and desires of human beings. Economic needs and societal medicalisation however, have both the same effect: they imperil traditional equality-based solidarity. Having examined various theories of justice, Gefenas finally analyzes the two-tier model of health care, which is considered by many to be the best translation of the idea of distributive justice in the present circumstances.

In bioethics, the issue of justice is under debate in three different contexts. First, it is at stake in health policy, regarding the questions of health care reform and health care system, as discussed by Gefenas. Second, in every health care system, just distribution is an issue if resources are scarce. In European countries, its most visible sign is the existence of waiting lists for a range of health services. Third, justice is problematic on the micro-level of doctor-patient interaction when health professionals have to select among candidates for treatment.

The second context is analyzed in the chapter of ten Have. He argues that the waiting list as a rationing instrument is morally problematic, although it is organized on the basis of ethical selective principles. A different approach to the allocation problem is needed. This approach should take seriously Durkheim's double nature of men, and especially the social dimension of human beings. As long as the focus is on individual needs and wants, it will be impossible to adequately resolve the issue of fair allocation of resources. The focus should shift towards the question what, from the perspective of the community of individuals, is necessary to provide. A more communitarian approach is proposed in order to safeguard the basic notions of equal accessibility and solidarity in health care. A priority setting process

focused on patient categories and community needs rather than individual patients and individual needs is necessary to determine what are essential services that must be provided without restrictions to all citizens.

A striking phenomenon in many countries is the establishment of health care ethics committees. These committees operate as a platform to mediate between individual and community concerns in health care. Christopher Melley from the U.S.A., working in Germany, addresses the relevant aspects of this phenomenon. He argues that ethics committees are the preferred mechanism of resolving moral conflicts in health care. He carefully analyzes the strengths and weaknesses of ethics committees.

Practical consequences from the above chapters are elaborated in the case analyses. Bela Blasszauer from Hungary illustrates how in his country basic human rights are not easily recognized. Justice and community considerations can only play a significant role in health care if the conditions for participatory democracy are not only created but also working in practice. The second case is located on the above-mentioned microlevel of doctor-patient interaction. Ten Have reviews various criteria for patient selection. He examines in more detail the now popular criterion of personal responsibility for health. In the third case analysis, Hub Zwart from the Netherlands focuses on mechanisms of consensus formation in ethics committees. He portrays these mechanisms as a practice of moral experimentation within today's health care.