

THE OLD, THE AILING AND THE STATE

By Dr Alphonse Crespo ¹

For times immemorial, the awareness of risk pushed individuals to save for old age or to make some provision for illness or misfortune. The management of personal risk rested mostly on the responsibility of the individual or on the compassion of his kin. With the advent of modern nation states this burden has shifted from the shoulders of individuals to the fist of government. By the middle of the 20th century, the state was anointed with extensive protective functions that entailed massive government intervention in the fields of medical services, health insurance funding, and old age provision. This has carried on to this day and affects the fate of those who have to face illness or who come reach old age, i.e. ultimately all of us.

Welfare paradigms can also become old and ailing. The time has come to question 20th century Social Security models on their own premises. Health care and pensions are the primary points of impact of the modern welfare state. The first part of this paper focuses on the health-care entity of the welfare conundrum and examines the influence of the market on medical care, both from an ethical and from a historical perspective. The second part explores the interface between health care and pensions and demonstrates how state protection alters this interface in a way that affects both the ethics of medical care and the philosophy of welfare.

The Survival of the Weakest

A brief reminder of the original goals of welfare is necessary in order to put these issues into proper perspective. The inception of modern welfare ideology can be traced to compassionate 19th century idealists (Sismondi, Owen, Saint-Simon) who were concerned about the hardships that seemed to taint the budding of capitalism. These early welfarists were in search of a stable, non-religious superstructure, immune from the ebbs and flows of the market and powerful enough to provide for the survival of the weakest.

Bismarck was the first to perceive that a well-organized state had the potential to take up protective social tasks. The ointment of social security would ensure the smooth acceptance of other more aggressive endeavors of Prussian power in the late 19th C. By the mid twentieth century the might of the modern nation state had fully bloomed. Verdun, Dachau, Dresden or Hiroshima demonstrated its formidable destructive capabilities beyond all expectations. By 1950 statesmen of right and left were ready to atone for the homicidal fury of their warring predecessors by turning the full force of state action towards social protection as Bismarck had started to do before them. Medical services and old age pensions were the first priorities in this redeeming task. The ailing and the ageing would no longer have to fear the harshness of the market, nor the greed of doctors. The modern state had the power to tame the natural egoism of the young and to tap the earnings of the wealthy. Access to medical care would henceforth be guaranteed to all: medical service would either be served free or through heavily subsidized insurance... In both case the ruthless fist of planning and regulation was set to counter and ultimately replace the unpredictable whims of

capitalism's *invisible hand*. Thus throughout the second half of our century medical services came to be gradually excluded from general market economy.

There was indeed a fallacy in the assumption that patients had to be protected from market forces. This fallacy however would only become evident to those who understood the fundamentals of medical practice and who were willing follow their path in history.

The Fate of Medical Fundamentals in Market Societies

Taken as an entity, medicine has an internal logic that involves three fundamentals. First, the ethical purpose: to do good to ailing human beings or at least to do no harm. Second, a scientific methodology where action is based on observation, deduction and constant research. Third, a contractual pact between the physician and his patient, freely accepted by both parties

These fundamentals are first found in the teachings of Hippocrates as recorded in the Hippocratic Collection (a compilation of Middle Age manuscripts attributed to his disciples). From an epistemological point of view the Hippocratic writings are the earliest known coherent applications of scientific methodology. Before Hippocrates, healing was intertwined with magic or religion. Hippocratic medicine breaks from the protective aura of the temple and projects the craft of healing into the rational, creative and competitive commercial world of the agora. The healer forgoes the role of priest endowed with supernatural powers and embraces that of the craftsman who offers his services from town to town... The success of his trade will largely depend on his reputation. And he can only build a reputation if he acts both with prudence and with competence. The quality of ancient Greek medicine as reflected by the Hippocratic Collection has never ceased to remain a source of admiration and even of inspiration for generations of doctors to this day.

Hippocratic medicine was basically the product of a very open market. Prominent historians of ancient medicine such as Ludwig Edelstein suggest that even the ethical conduct of the Hippocratic doctor was the fruit of the subtle pressures of the market. Hippocratic writings advocate that doctors should not charge more than what the patient can pay and if necessary treat some patients for free as this will enhance both his reputation as his practice. It is also true the deepest satisfactions granted by the art healing seldom come in the form of money.

Medical practice has undergone many changes since the times of Hippocrates. Nevertheless, looking at the history of medicine one sees medical breakthroughs go hand in hand with genuine concern for patients whenever and wherever the medical profession has had to compete in an open market. Conversely, both medical progress and compassion suffer whenever the purveyor of medical care is subjected to powers other than those of his patient: be it the roman emperor, the holy inquisition, the Nazi ideologue, the NHS bureaucrat or the Medicare administrator.

The Greeks did not only introduce reason into the art of healing. They also fathered the ethical norms of the medical profession. With the notable exception of Sparta, a military state, they were essentially a market society. Despite the contributions made by the great Galen, rational medicine ultimately declined in the Roman Empire. Roman society was more prone to conquest and confiscation than to peaceful

exchange. The dark ages that followed the barbarian invasion of Western Europe were also dark ages for medicine. Dominant Christian dogmas endowed human suffering with redemptive virtues and did not put a premium on healing and cure... other than of the miraculous kind!

In Islamic societies the bazaar is as potent an institution as the mosque whilst the Jewish tradition does not hold the same distrust for commerce, as did the medieval Christian church. The Hippocratic heritage survived in the East. Medical knowledge spread from Alexandria and Byzantium to Baghdad before caressing the Iberian tip of Europe in Moorish Cordova. The names of the great physicians spell in Arabic or in Hebrew - Avicenna (Abu' Sinna), Averroes, Maimonides... The Crusades open new trade routes. Through them, medical knowledge and the Hippocratic tradition will slowly flow back to the west nourishing the early medical schools of Salerno, Bologna or Montpellier. Innovation will also find fertile ground in the free merchant cities of Brussels, Leyden or Basel, some of whose medical figureheads (Vesalius, Paracelsus) will defiantly break with doctrinal restrictions placed on medical exploration by the medieval Church and its secular relays.

Laissez Faire Medicine

In sixteenth century Strasbourg, surgeons are no different from other craftsmen. Following Gutenberg's pivotal discovery of the printing press they will produce the first printed medical treatises of our era, setting a new pace for surgical progress. They do not overlook the ethical substance of the profession. One of them, Otto von Guersdorf author of one of the earliest printed surgical textbooks of our era, humbly acknowledges that his craft belongs to the marketplace while also stressing the moral obligation to do no harm.

Modern Medicine will make some of its biggest leaps during the mid 19th century. This coincides with the industrial revolution and a political environment bent on classical liberalism and economical laissez faire. The collectivistic ideologies that dominated the 20th century did not halt the momentum of technical progress triggered by nascent capitalism in the 19th. What they did to medical ethics is another story. When the patient is no longer the doctors' patron, the medical corporation will tend to shift his loyalty to its new paymaster - the state or its proxies. As Ernest Truffer, a Swiss medical philosopher claimed in 1981 this invariably leads to a veterinarian approach to medical practice. The veterinarian will adapt his treatment of the ailing animal to the wishes of the animal's owner. The State's religion, whether it is National Socialism, communism or Environmentalism, ultimately takes precedence over the Hippocratic ethic. It is precisely this shift from the Hippocratic ethic to a veterinarian ethic that led to the experiments of doctor Mengele in the Nazi camps, to the psychiatric gulags of the Soviet Union, to human guinea pigs rented by the DDR state to pharmaceutical industries – or to forced abortions dealt by decree in Mao's China.

The use of medicine as a biological tool to implement state policies is not a monopoly of totalitarian regimes... A Swiss child adoption program financed by Pro-Juventute (a State sponsored Swiss Foundation in favor of Youth) and which was pursued until the late nineteen sixties included forced sterilization of gypsy mothers and the retrieval of their new-born children. These were then given for adoption to non-gypsy foster families. State medicine was also at play when live *treponema pallidum*

concentrates were injected to a population of American Negroes by government doctors set to study the natural outcome of syphilis. These experiments were part of a tax funded bacteriological warfare research program... Just as nuclear physics was misused by political power to produce the atom bomb -medicine turns into a destructive force when its ethical and contractual substance is replaced by the morality of the state. Now, will you ask, what has all of this to do with pensions?

How Socialized Health Care Kills the Weak

Social engineers have to deal with a pension-funding crisis set to explode within the first ten years of the twenty first century. Demographic trends have burdened the social state with an elderly population it can no longer handle because of its sheer numbers... The resources the state must divert towards pension funding grow exponentially with every incremental increase of general life expectancy. To make things worse, the last year of life of an ageing adult is the one that puts the most strain on health budgets. The ageing of the population is the direct biological cause of the impending bankruptcy of the entire social security system. Drastic health care rationing policies simply shift expenses from patient care to regulation and control and will not solve the funding crisis. Limiting the access of some categories of patients, namely the elderly or those facing catastrophic illness, to *state of the art* care has so far had no effect on global government deficits. Curbing medical innovation through regulatory policing of creative health industries - a subtle form of rationing that closes taps of cure at the supplier end - has simply channeled resources towards less effective therapeutic ventures.

Administrative hurdles to medical progress and to quality care must however be examined in the context of social security taken as a whole. Placed in such a perspective they cease to be all onus. They can even become powerful tools in the treatment of demographic pressures that threaten pension funding systems. Dead patients claim no pensions. The British NHS has notoriously kept up to one million patients in waiting lists for surgery, many of whom have had the grace to die while on the queue. Jacques Attali, Mitterrand's pet socialist intellectual, is quoted as saying "beyond sixty or sixty five man costs more to society than it produces; it would be better if his life was stopped at that point." Recent Medicare legislation (section 4507) in the USA that outlaws private contracts between doctors and Medicare patients has been compared by advocates of health freedom to "a policy of calculated genocide". This legislation violates the 9th and 14th amendment of the American constitution, which gives us citizens "a liberty interest in their life, self and health". Dr Jacques Chaoulli a Montreal practitioner fought and ultimately won on similar constitutional grounds a harassing legal battle against the Canadian government healthcare monopoly, though this has not radically curbed legal rationing of medicine in his country.

We are getting to the crux of the matter.

Modern welfare bureaucracy has the power to regulate the recovery of individuals struck by illness or weakened by old age. On a wider redistributive scale, health and pension budgets must compete with other government budgets. Resources not allocated to social security are spent elsewhere: generally wherever lobbies are strong enough to influence political decisions: defense programs whenever hawks dominate the scene, environmental projects when the *greens* pervade... In the

ongoing redistributive battle for state handouts that is waged in the political arena, the voices of elderly and of the ailing are too weak to be heard. Their vital interests are offset by the whims and wants of younger, healthier and more vocal power players in society...

Decaying welfare states faced with bankruptcy need medicine both as a buffer and as tool for population control and containment. Medical rationing is only the first step towards forced euthanasia. In this instance it is not the patient who freely decides he will put a stop to the battle for life - but the state bureaucrat who may refuse to offer a lifesaving procedure or parliaments whose restrictive regulatory legislation interferes with the development of new curative drugs. All this on the grounds that productive citizens will no longer foot the ever expanding bills of state protection...

The Welfare state has turned the tables upon itself. It no longer protects the weakest members of society as it had originally pledged to do. It now calls the dice in favor of the strongest, echoing Plato's words in *The Republic*: "...when a citizen becomes too weak to serve the state, the Republic must put an end to his life". How far we have moved from Hippocrates!

A Return to Hippocrates

Deregulation of health care and privatization of pensions have become vital tasks: not only for economical reasons but also on moral grounds.

Moving healthcare and pensions back to the market is the only way to protect the weakest members of society from the destructive logic, which whether in war or peace will always spring out of State action.

Full privatization of medical services is the only way to guide the medical profession back from the veterinarian ethic that puts their tools in the hands of an abstract and potentially dangerous political entity, to the Hippocratic ethic that puts physicians at the exclusive service of their patients.

Privatization of pensions is the only way of avoiding conflict between the older generations to which we owe our present wealth and the younger generations at last left free to produce new wealth for the future

Above all privatizing health care ultimately means restoring the exclusive property rights each individual has on his own body, on his on his own health and on his own life.

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ⁱ Adapted from a lecture on "Medicine and the Pension Crisis" given at the Hayek Memorial conference. Vienna 1998