

## Review Article

# The Question of Justice in Treating the COVID-19 Patients - Has Prioritizing the Fittest to Receive the Treatment Become the Norm?

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## Introduction

COVID-19 has turned the world upside down. The whole world is devastated by this corona virus that has killed close to three hundred thousand people so far worldwide. In treating its infected patients, health professionals found that the needed ventilator to save life is in dire short supply thus posing a dilemma of how to distribute the scarce medical device.

## Ventilator, A Tool to Save Life When a Patient Develops Breathing Problem

When a patient cannot breathe properly, ventilator can take over by forcing air into the lungs at certain intervals to prevent immediate death from occurrence therefore gaining time to treat the patient. There are two types of ventilation: mechanical and non-invasive. Non-invasive ventilation involves a face mask fitted over the mouth and nose with no tube required to establish the airway. But when someone needs a longer-term help to breathe, a mechanical ventilator is required. A mechanical ventilator is connected to a tube inserting into the patient's windpipe through nose or mouth. The COVID-19 pandemic which strikes the world in early 2020 found humankind being ill-prepared to meet the challenge because the ventilator that is needed to treat the patient has been depleted. Not only ventilator is in short supply, the mask to prevent the infection is also extremely lacking. As a result some elderly patients have been denied of this last life-saving tool for the reason that younger patients may have better chances of recovery therefore the elderly has been denied its access. News report has this: "hospitals in Italy are no longer incubating patients over the age of 60, with some doctors being forced to make agonizing decisions about who lives and who dies in the face of the ongoing corona virus pandemic, according to shocking eyewitness reports from healthcare professionals" [1].

## Justice, A Principle of Medical Ethics Advocating Fairness to All

Justice is the one of the major principles of medical ethics upholding that "requires us to treat every patient as equal and provide equivalent treatment for everyone with the same problem"

[2]. Robert Veatch of Kennedy Institute of Ethics said that "people in similar situation should be treated equally" [3]. Beauchamp and Childress, the authors of the Principles of Medical Ethics wrote: "no person should be treated unequally despite all difference with other persons" [4]. In medical school teaching, students are taught to treat every patient equally. In other words, no gender, color, creed, social status of patient should stand on the way to affect how a patient is cared for. A patient is a patient, no difference in age, gender, color... that all deserve the best care and treatment he or she needs regardless of anything. Hippocrates' oath that every medical student studies and also takes before starting clinical training is vividly visible in all medical school. They vow that they will not violate their role as healers and swear that they will observe the solemn oath of non-maleficence, beneficence, respecting autonomy and upholding justice in clinical practice.

The principle of justice has been described as the moral obligation to act on the basis of fair arbitration. It is linked to fairness, entitlement and equality. In health care ethics, this can be subdivided into three categories: fair distribution of scarce resources (distributive justice), respect for people's rights (rights based justice) and respect for morally acceptable laws (legal justice) [5]. The terms fairness, desert, and entitlement have been used by philosophers to explain the idea of justice, while equitability and appropriateness of treatment are used in interpretations.

At the time when medical supplies of any kind are inadequate and limited, can a physician be allowed to play the role of God deciding who lives and who dies? Beauchamp and Childress have indicated "... until it has been shown that there is a difference between their relevant to the treatment at stake" [4], can some other measures be considered. Here we found that there are two different types of justice, the formal justice and material justice [6]. Formal justice can be understood as the treatment that is given at 'the first come first served' basis. In this sense, everyone receives the equal chance without any difference. If the elderly patient is the first to be admitted to hospital, he or she will have the privilege to receive a ventilator when needed, the younger that came later would have to wait till another ventilator is available. Formal justice is not comparative while material justice is comparative to be determined by the degree of emergency or recoverability or otherwise. When medical resources are limit, Tom Beauchamp and James Childress mentioned "justice is comparative when one person deserves can be determined only by balancing the competing claims of others persons against his or her claims. Justice is non-comparative by contrast when desert is judged by a standard independent of the claims of others, e.g. by the rule that an innocent person never deserves punishment" [7].

In daily practice, quite often we notice the material justice is

applied that each patient is served according to individual need. This pandemic experience gives us a great lesson that hospital should be prepared to meet all kind of challenge at all time, therefore all medical equipment should be in place and stored especially for the medical center that is expected to be capable of dealing with all problems in all situation.

Justice in medical ethics can be complicated and complex as everyone's concept of fairness tends to be different. The Medical Portal of the Royal Society of Medicine in UK has suggested four aspects to consider when confronting the troubling decision-making dilemma:

1. Is this action legal?
2. Does this action unfairly contradict someone's human rights?
3. Does this action prioritize one group over another?
4. If it does prioritize one group over another, can that prioritization be justified in terms of overall net benefit to society or agree moral conventions? [8].

This fourth aspect seems to justify the act of denying elderly patient to ventilator while giving it to the younger one. It argues that the younger patients have better chances of recovery therefore, this act therefore is justifiable. Though this argument is based on utilitarian ground, it is a violation of the principle of justice to "treat every patient as equal and provide equivalent treatment for everyone with the same problem" [2]. Therefore in order to avoid any situation like this from arising, medical institutes should be prepared anytime to meet the challenge of the unpredictable outbreak of contagious diseases. In other words, hospital must always be ready to provide needed medical services with ample storage of medical supplies and devices.

### Should the Fittest be Selected to Give Ventilator?

The concept of "the Survival of the Fittest" is borrowed here to describe what happened in some places which might have deprived the right of the elderly to use respirator due to shortage of supplies. What happened in Italy of passing the elderly patient their use of a ventilator to younger patient appears to be contradictive to the professional teaching in medical school. At this COVID-19 pandemic, we noticed that some elderly patients have been let die without giving them respirator to offer them chances of recovery simply because the older the patients, the more likely they will perish while the younger patients will have better chances of healing. "Survival of the fittest" is a phrase that originated from Darwinian evolutionary theory as a way to describe the mechanism of natural selection. The biological concept of fitness is defined as reproductive success. The phrase can also be interpreted to express a theory or hypothesis that "fit" as opposed to "unfit" [9]. Some of the elderly patients have been regarded as "unfit" for their chance of recovery is slim. This situation can occur and it is indeed unfortunate and pitiful.

In late March this year, nearly 1,400 of the most prominent bioethicists and health leaders in USA signed an urgent letter to Congress and the White House, imploring the US government

to immediately use its federal power and funds to respond to the COVID-19 pandemic as a matter of moral imperative. Among the five requests it posted, "ensure the manufacture and distribution of needed supplies" came first. It also asks to protect the vulnerable [10].

This petition clearly indicates that every patient needs to be cared for and protected as it is a solemn duty of health professionals. Refusing to give ventilator to elder patient when they need it is a serious violation of medical ethics although it can be due to the compromise made in a situation where medical resources are scarce. Patients with better chances of survival thus are given the ventilator for the sake of saving more lives.

American medical ethicists and medical leaders stressed in their appeal that no one's life is more valuable than the life of another. Sun Simiao, the father of Chinese medical ethics, put it in 6<sup>th</sup> century: "Life is precious, heavier than thousand pounds of gold". "Whenever a great physician treats diseases....he should commit himself firmly to the willingness to take the effort to save every living creature" [11]. What the doctors see should be patients as persons needing help in front of them without distinguishing between the white and the black, the rich and the poor, nor should there be a difference between the young and the old. Skin color, wealth, gender or social privilege should not stand on the way of treating the sick.

The unfortunate situation of lacking medical resources may occur at times and bioethicist may be forced to adopt some consequential approach to choose who to live and who to die. But medical professionals must bear in mind that every life is worthy and weights the same and deserves to be treated in the best way they can. It is health professionals' duty to be well prepared to meet any kind of emergence. The survival of the fittest violates the sacred profession of health care. Facing the threat of COVID-19 pandemic, medical professional should uphold the dignity of humankind, follow ethical guidelines and guarantee everyone's access to medical assistance and respect her/his right to healing.

### Be Prepared - Taiwan as an Example

Taiwan's remarkable experience in containing COVID-19 in 2020 proves that justice is not only about equality, it also calls for readiness to meet the challenge so that everyone can be treated fairly. The ethical dilemma happened in Italy never took place in Taiwan.

When the outbreak of COVID-19 first started in January, 2020, some experts predicted that Taiwan would have the highest number of cases outside of China because it sits only 180 kilometers away from the coast of China and also has frequent air flights between two countries with close commercial connection. While China has had over 80,000 COVID-19 cases to date, Taiwan has kept its number of confirmed cases just around 400 and only 6 death. Some international health experts credit this to Taiwan's quick preparation and early intervention.

Although Taiwan has high-quality universal health care, its success lies in its preparedness, speed, central command and rigorous contact tracing. Anticipating the high demand for masks in late January, the Taiwanese government right away purchased the manufactory machine to produce needed mask immediately. Taiwanese citizens can go to designated drug stores across the country to buy a specific

number of masks on a weekly basis [12]. Ventilator, swap and hospital isolation ward/room have never run insufficient.

Be prepared, get ready to meet any challenge is the lesson Taiwan learned from the SARS epidemic in 2003 where Taiwan paid a heavy price. Now, they are ready. Justice is not only about equality and fairness; it is also about readiness and preparation to act quickly.

## Conclusion

Medical principles remind us to be dutiful in serving the medical needs of the sick. All of these principles have something to do with attitude and awareness. But without being well prepared, good intention to serve is not enough. COVID-19 should teach all the world a new lesson that we must be prepared, be ready to meet the challenge of next wave of unexpected new contagious disease.

Many elderly patients have died because they never got the chance to have a ventilator to help breathe at the critical time. Even if they received the respirator, some of them might still die but at least they were cared for equally, same as other patient. If we can learn the lesson, their death will not be in vain. Human society should be a community of love and mutual respect where every life is worthwhile to live and to save.

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