

Illegal Immigrants Have the Right to Receive U.S. Health Care

James Dwyer At Issue: What Rights Should Illegal Immigrants Have Lori Newman Greenhaven Press Viewpoint Illegal immigrants form a large and disputed group in many countries. Indeed, even the name is in dispute. People in this group are referred to as illegal immigrants, illegal aliens, irregular migrants, undocumented workers, or, in French, as sans papiers. Whatever they are called, their existence raises an important ethical question: Do societies have an ethical responsibility to provide health care for them and to promote their health Medical Care for Illegals Is an Ethical Question This question often elicits two different answers. Some people-call them nationalists-say that the answer is obviously no. They argue that people who have no right to be in a country should not have rights to benefits in that country. Other people-call them humanists-say that the answer is obviously yes. They argue that all people should have access to health care. It's a basic human right. I think both these answers are off the mark. The first focuses too narrowly on what we owe people based on legal rules and formal citizenship. The other answer focuses too broadly, on what we owe people qua human beings. We need a perspective that is in between, that adequately responds to the phenomenon of illegal immigration and adequately reflects the complexity of moral thought. There may be important ethical distinctions, for example, among the following groups: U.S. citizens who lack health insurance, undocumented workers who lack health insurance in spite of working full time, medical visitors who fly to the United States as tourists in order to obtain care at public hospitals, foreign citizens who work abroad for subcontractors of American firms, and foreign citizens who live in impoverished countries. I believe that we-U.S. citizens-have ethical duties in all of these situations, but I see important differences in what these duties demand and how they are to be explained. In this paper, I want to focus on the situation of illegal immigrants. I will discuss several different answers to the question about what ethical responsibility we have to provide health care to illegal immigrants.... I believe that a sound ethical response to the question of illegal immigration requires some understanding of the work that illegal immigrants do. Most undocumented workers do the jobs that citizens often eschew. They do difficult and disagreeable work at low wages for small firms in the informal sector of the economy. In general, they have the worst jobs and work in the worst conditions in such sectors of the economy as agriculture, construction, manufacturing, and the food industry. They pick fruit, wash dishes, move dirt, sew clothes, clean toilets.... A Matter of Desert The abstract ethical question of whether societies have a responsibility to provide health care for illegal immigrants sometimes becomes a concrete political issue. Rising health care costs, budget reduction programs, and feelings of resentment sometimes transform the ethical question into a political debate. This has happened several times in the United States. In 1996, the Congress debated and passed the "Illegal Immigration Reform and Immigrant Responsibility Act." This law made all immigrants ineligible for Medicaid, although it did allow the federal government to reimburse states for emergency treatment of illegal immigrants.... Although it is true that illegal aliens have violated a law by entering or remaining in the country, it is not clear what the moral implication of this point is. Nothing about access to health care follows from the mere fact that illegal aliens have violated a law. Many people break many different laws. Whether a violation of a law should disqualify people from public services probably depends on the nature and purpose of the services, the nature and the gravity of the violation, and many other matters. Consider one example of a violation of the law. People sometimes break tax laws by working off the books. They do certain jobs for cash in order to avoid paying taxes or losing benefits. Moreover, this practice is probably well quite common. I recently asked students in two of my classes if they or anyone in their extended family had earned money that was not reported as taxable income. In one class, all but two students raised their hands. In the other class, every hand went up. What is false is the idea that we have to choose between basic health care for illegal aliens and basic health care for citizens. No one has suggested that health care facilities deny care to people suspected of working off the books. But undocumented work is also a violation of the law. Furthermore, it involves an issue of fairness because it shifts burdens onto others and diminishes funding for important purposes. Of course, working off the books and working without a visa are not alike in all respects. But without further argument, nothing much follows about whether it is right to deny benefits to people who have violated a law.... I would restate the argument in the following way: Given the limited public budget for health care, U.S. citizens and legal residents are more deserving of benefits than are illegal aliens. This argument frames the issue as a choice between competing goods in a situation of limited resources. There is something right and something wrong about this way of framing the issue. What is right is the idea that in all of life, individual and political, we have to choose between competing goods. A society cannot have everything: comprehensive and universal health care, good public schools, extensive public parks and beaches, public services, and very low taxes. What is false is the idea that we have to choose between basic health care for illegal aliens and basic health care for citizens. Many other tradeoffs are possible, including an increase in public funding. The narrow framework of the debate pits poor citizens against illegal aliens in a battle for health care resources. Within this framework, the issue is posed as one of desert [who is most deserving of receiving a benefit]. Avoiding the idea of desert is impossible. After all, justice is a matter of giving people their due-giving them what they deserve. But a narrow conception of desert seems most at home in allocating particular goods that go beyond basic needs, in situations where the criteria of achievement and effort are very clear. For example, if we are asked to give an award for the best student in chemistry, a narrow notion of desert is appropriate and useful. But publicly funded health care is different and requires a broader view of desert. Measures that deny care to illegal aliens, or make them afraid to seek care, could lead to an increase in tuberculosis. The discussion of restrictive measures often focuses on desert, taxation, and benefits. Proponents tend to picture illegal immigrants as free riders who are taking advantage of public services without contributing to public funding. Opponents are quick to note that illegal immigrants do pay taxes. They pay sales tax, gas tax, and value-added tax. They often pay income tax and property tax. But do they pay enough tax to cover the cost of the services they use Or more generally, are illegal immigrants a net economic gain or a net economic loss for society Instead of trying to answer the economic question, I want to point out a problem with the question itself. The question about taxation and benefits tends to portray society as a private business venture. On the business model, investors should benefit in proportion to the funds they put into the venture. This may be an appropriate model for some business

ventures, but it is not an adequate model for all social institutions and benefits. The business model is not an adequate model for thinking about voting, legal defense, library services, minimum wages, occupational safety, and many other social benefits....

A Matter of Professional Ethics Some of the most vigorous responses to restrictive measures have come from those who consider the issue within the framework of professional ethics. Tal Ann Ziv and Bernard Lo, for example, argue [in the *New England Journal of Medicine*] that "cooperating with Proposition 187 [a proposal to deny health care to illegal immigrants in California] would undermine professional ethics." In particular, they argue that cooperating with this kind of restrictive measure is inconsistent with physicians' "ethical responsibilities to protect the public health, care for persons in medical need, and respect patient confidentiality." Restrictive measures may indeed have adverse effects on the public health. For example, measures that deny care to illegal aliens, or make them afraid to seek care, could lead to an increase in tuberculosis. And physicians do have a professional obligation to oppose measures that would significantly harm the public health....

A Matter of Social Responsibility Framing the issue in terms of social responsibility helps to highlight one of the most striking features of illegal immigration: the employment pattern within society. As I noted before, illegal immigrants often perform the worst work for the lowest wages. Illegal immigrants are part of a pattern that is older and deeper than the recent globalization of the economy. Societies have often used the most powerless and marginalized people to do the most disagreeable and difficult work. Societies have used slaves, indentured servants, castes, minorities, orphans, poor children, internal migrants, and foreign migrants. Of course, the pattern is not exactly the same in every society, nor even in every industry within a society, but the similarities are striking. I see the use of illegal immigrants as the contemporary form of the old pattern. But it is not a natural phenomenon beyond human control. It is the result of laws, norms, institutions, habits, and conditions in society, and of the conditions in the world at large. It is a social construction that we could try to reconstruct. Some might object that no one forces illegal immigrants to take unsavory jobs and that they can return home if they wish. This objection is too simple. Although most undocumented workers made a voluntary choice to go to another country, they often had inadequate information and dismal alternatives, and voluntary return is not an attractive option when they have substantial debts and poor earning potential at home. More importantly, even a fully informed and voluntary choice does not settle the question of social justice and responsibility....

We need to take responsibility for preventing the old pattern from continuing, and the key idea is that of "taking responsibility...."

An Inclusive View of Society Why should society take responsibility for people it tried to keep out of its territory, for people who are not social members? Because in many respects illegal immigrants are social members. Although they are not citizens or legal residents, they may be diligent workers, good neighbors, concerned parents, and active participants in community life. They are workers, involved in complex schemes of social cooperation. Many of the most exploited workers in the industrial revolution—children, women, men without property—were also not full citizens, but they were vulnerable people, doing often undesirable work, for whom society needed to take some responsibility. Undocumented workers' similar role in society is one reason that the social responsibility to care for them is different from the responsibility to care for medical visitors.

Providing health care for all workers ... [will] improve the benefit that workers receive ... and ... express social and communal respect for them. If a given society had the ethical conviction and political will, it could develop practical measures to transform the worst aspects of some work, empower the most disadvantaged workers, and shape the background conditions in which the labor market operates. The interests of the worst-off citizens and the interests of illegal immigrants need not be opposed. Practical measures may raise labor costs and increase the price of goods and services, as they should. We should not rely on undocumented workers to keep down prices on everything from strawberries to sex....

Good health care can, among other things, prevent death and suffering, promote health and well-being, respond to basic needs and vulnerabilities, express care and solidarity, contribute to equality of opportunity, monitor social problems (such as child abuse or pesticide exposure), and accomplish other important aims. But health care is just one means, and not always the most effective means, to these ends. To focus on access to and payment of health care is to focus our ethical concern too narrowly. I believe that societies that attract illegal immigrants should pursue policies and practices that (1) improve the pay for and conditions of the worst forms of work; (2) structure and organize work so as to give workers more voice, power, and opportunity to develop their capacities; and (3) connect labor to unions, associations, and communities in ways that increase social respect for all workers. I cannot justify these claims in this paper, but I want to note how they are connected to health care. Providing health care for all workers and their families is a very good way to improve the benefit that workers receive for the worst forms of work, to render workers less vulnerable, and to express social and communal respect for them. These are good reasons for providing health care for all workers, documented and undocumented alike. And they express ethical concerns that are not captured by talking about human rights, public health, or the rights of citizens. I have examined the frameworks that are employed in discussions about illegal immigrants and health care. I argued against conceptualizing the issues in terms of [deserting,] ... professional ethics, or even human rights. Although all of these concepts highlight something important, they tend to be too narrow or too broad....

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