Right, Well-being and the Republic of Health: A Response to Jennings

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This commentary offers a response to Bruce Jennings' arguments concerning republicanism and health.

Bruce Jennings' acute essay identifies the salience of political theory for reflecting on public health as 'a public thing' (*rem publicam*) by sketching out two important strands in a broadly republican approach, namely, the relational turn in political philosophy and the idea of governing the health commons, before drawing out the implications of these strands for an understanding of membership and mutuality as contexts for a republic of health. This is a bold theoretical statement to which I am very sympathetic but which, I propose, may need to introduce important distinctions into its articulation of freedom within the republic of health.

In his discussion of liberty, Jennings addresses two normative outlooks whose relationship needs careful attention: the classic republican focus on freedom as non-domination which is oriented to the republic as a *rightful* condition of citizens standing *at liberty*, on the one hand, and the capability approach to freedom which is directed to the polity as a site of *human flourishing*, on the other hand. It is not my intention here to deny that both a deontological focus on right relation and a teleological focus on well-being can be found within the resources of the republican tradition, but rather to propose that the question of their relationship is a consequential one for how one conceives the republic of health and the place of freedom within it.

To support Jennings' decision to attend to both rightful standing and well-being in his conception of a republic of health, we may note that grounds for the claim that respect for the dignity of human beings includes both dimensions can be found in reflecting on classical republicanism's animating exemplar of indignity: the slave. The wrong of slavery is primarily conceptualized by modern republican authors in terms of disrespect as the denial of rightful standing, that is, slavery as the coercive denial to such persons of their due standing as human beings expressed in their vulnerability to

arbitrary exercises of power. Such a view of the wrong of slavery is partial and incomplete in overlooking the natal alienation and social death of the slave, that is, disrespect as the denial of basic conditions of human flourishing. Slavery is the paradigm of disrespect because it exhibits both denial of rightful standing and disconnection from fundamental conditions of well-being. Crucially, however, the latter is consequent to, and held in place by, the former. The reason that this matters with respect to our current concerns is that it entails the normative priority of rightful standing to well-being.

The significance of this point emerges in noting two different relations in which issues of well-being can stand relative to rightful standing. The first relation is that of the well-being required for citizens of a republic to participate in social and political life as equals. Such participation requires various capacities and dispositions that, as we might say, are fundamental conditions of republican well-being. The second relation is that of the well-being that citizens of a republic aim to promote as part of their democratic working out of the common good. In terms of public health, we can distinguish between health issues that are public in virtue of being (i) fundamental to the constitution, and mutual recognition, of republican citizens as social and political equals and (ii) non-fundamental but democratically constituted as matters of public interest by a republican citizenry. This distinction is, I think, absent in Jennings' account but it matters for how we conceive the democratic governance of the health commons as a common pool resource.

Consider the analogy between this distinction and that between constitutional rules as fundamental to a rightful condition and political laws and policies as articulations of the common good worked out by a citizenry who inhabit such a condition. What we might call

‘constitutional public health’ is concerned with those public health infrastructures, policies and practices that are required to ensure that citizens are recognized as, and can participate as, equals in social and political life. This *non-domination* focus would include equal access to health resources and capabilities as both an expression of the equal standing of citizens and as part of the material basis of such equality as well as constructing civic duties of health, for example, duties to refrain from behaviors that unnecessarily heighten public health risks (e.g. not vaccinating one’s children). By contrast, what we might call ‘policy public health’ has a *human flourishing* focus and concerns those public health infrastructures, policies and practices that are not required for recognition and participation as equals but express specific determinations of the common good by citizens (for example, ‘traffic light’ food labeling) and give rise to civic health virtues such as doing exercise regularly and eating a healthy diet. It is also important to note that the line between constitutional politics and policy politics is not fixed and is open to democratic amendment by citizens as circumstances or knowledge changes.

Bringing this distinction into focus helps us to see both how public health has an important role in the

constitution of the public world of republican citizenship and how the constituted public of republican citizens democratically governs what is public in public health. This is the governance of the health of the people by the people and for the people. What is, I think, striking about recent public debates concerning vaccination is how one important strand of the public discussion implicitly invokes such a republican picture—and this raises a final point. If it is the case in contexts of public health such as vaccination that the republican outlook resonates with significant public intuitions, perhaps public health can serve as a privileged arena for the cultivation of this republican outlook, that is to say that public health may be an area that leads citizens to appreciate the merits of taking a republican, rather than liberal, view of politics.

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