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# Responding to the Tragedies of Our Time - The Human Right to Health and the Virtue of Creative Resolve

**Abstract:** We live in tragic times. Millions are sheltering in place to avoid exacerbating the Coronavirus (COVID-19) pandemic. How should we respond to such tragedies? This paper argues that the human right to health can help us do so because it inspires human rights advocates, claimants, and those with responsibility for fulfilling the right to try hard to satisfy its claims. That is, the right should, and often does, give rise to what I call the virtue of creative resolve. This resolve embodies a fundamental commitment to finding creative solutions to what appear to be tragic dilemmas. Contra critics, we should not reject the right even if it cannot tell us how to ration scarce health resources. Rather, the right gives us a response to apparent tragedy in motivating us to search for ways of fulfilling everyone's basic health needs.

**Keywords:** *Human Right; Health; Functionalist Theory; Rationing; Tragic Dilemmas*

## **Introduction:**

We live in tragic times. Millions are sheltering in place to avoid exacerbating the Coronavirus (COVID-19) pandemic. How should we respond to such tragedies? This paper argues that the human right to health can help us do so because it inspires human rights advocates, claimants, and those with responsibility for fulfilling the right to try hard to satisfy its claims. More precisely, I argue that the right's duty bearers should have a new virtue I *call creative resolve*. This resolve embodies a fundamental commitment to finding creative solutions to what appear to be tragic dilemmas.

I offer two arguments for the conclusion that the human right to health's duty bearers *should* cultivate the virtue. First, I argue that duty bearers should have creative resolve because creative resolve is *partly constitutive* of the right's

duties. In making this case, I adopt the standard interpretation of the right where its obligations fall primarily on states and secondarily on other states, international organizations, and individuals who are well placed to assist in fulfilling the right. Moreover, I assume the right generates independent obligations to ensure that everyone has the socially controllable determinants of health where possible. Though, as I explain below, this argument is compatible with many ways of thinking about the right. According to this, first, argument there is a conceptual connection between the right and the virtue that supports the normative conclusion that duty bearers *should* have creative resolve. Second, I argue that the right's duty bearers *should* have creative resolve because this resolve often helps fulfill the right. Although I believe that creative resolve is an excellence of moral character, this instrumental case for the virtue grounds it, partially, in the fact that it is (causally) important for fulfilling the right.

The paper proceeds as follows. The next section explains creative resolve. It clarifies the virtue's nature and limits by discussing its relationship to attitudes that support, and partly comprise, it. The third argues that creative resolve is partly constitutive of the right's obligations. The fourth section argues that human rights' duty bearers should have creative resolve because the virtue often helps fulfill the right. The rest of this section lays the groundwork for these arguments.

Note, first, that I talk about the right to health as opposed to a right to health care because the only reason healthcare is important is for securing health and many other things do even more to protect health than health care. Health care only accounts for, around, one-fifth of 20th century gains in life expectancy (Daniels, 2008). More importantly, people need health's social determinants including things like clean water, decent food, a safe environment and adequate sanitation. John Tasioulas and Effy Vayena (2016) object that endorsing a human right to health is too radical. They believe it is too hard to track progress in fulfilling the human right to health and the right is too demanding because it includes everything that can affect health. But we can measure progress in fulfilling the right by employing statistical methods for parsing out different contributors to health improvement. Moreover, as I discuss below, we can limit the right's demands as necessary. That is, if it is impossible to improve health beyond a certain level, or something more important will be lost if we try, the right does not require doing so. So, we can acknowledge that genetic factors and behavior often limit what we can do to protect and restore health. Still, to fulfill the right, states (and sometimes other agents) must normally help people secure the treatment, and so forth, from which they can benefit.

Moreover, in making the case that human rights' duty bearers should have creative resolve, I try to stay neutral between many competing accounts of what exactly the right requires. This obviously depends on one's conception of health and how the right is grounded amongst other things (Agich, 1997; Beitz, 2011; Boorse, 1987; Cooper, 2002; Engelhardt, 1976; Hassoun, 2020a; Kingma, 2007; Nickel, 2007; Reidy, 2016; Wolff, 2012). Elsewhere I argue at length for a demanding conception of the right grounded in concern for individuals' ability to live minimally well and discuss the conception of health underlying my view at some length (Hassoun, 2013, 2015b, 2019, 2020a, 2020b). That said, I hope that readers endorsing a right to health that at least gives individuals a claim to secure basic health care can employ their own conceptions of the right and health. Readers skeptical of some of the claims I make, and the examples I use, should be able to adopt a slightly modified version of my argument that corresponds with their account of the right.

Finally, in making the case that human rights' duty bearers should have creative resolve, I am not defending the standard view that the human right to health is aspirational and merely requires progressive realization (Rumbold et al., 2017). I think the virtue of creative resolve requires the right's duty bearers to go *beyond* just promoting core obligations, coming up with national plans of action, and progressively realizing the right: it requires them to realize the right insofar as possible and otherwise permissible – not just make progress towards doing so (Norheim and Wilson, 2014; Rumbold et al., 2017). As Amartya Sen suggests, 'in seeing health as a human right, there is a call to action now to advance people's health in the same way that the 18th-century activists fought for freedom and liberty' (Sen, 2008: 2010)<sup>1</sup>. On my account, the human right to health is not aspirational; it is inspirational.

### **The Human Right to Health and Creative Resolve**

Creative resolve requires human rights advocates, beneficiaries, and duty bearers to commit, imagine, and act to fulfill significant moral duties. But before explaining the virtue and the vices that can undermine it, consider how creative resolve helped one human rights organization fight drug resistant tuberculosis (TB) when no one thought it possible in a cost-effective way. Because Partners in Health (PIH) was committed to promoting everyone's human right to health, they refused to accept the 'conventional wisdom' that helping people with drug resistant TB was too costly (Farmer, 2008). PIH came up with creative new ways

<sup>1</sup> To some degree what is at issue in the debate about the human right to health is how we should think about rights. Gopal Sreenivasan claims, for instance, that his skeptical arguments are not conclusive 'against advocates who are happy to use the language of rights in a looser fashion than the philosophical strictures require' (Sreenivasan, 2012a: 240). Though I do not think the way I propose thinking about the right's demands is 'looser' than Sreenivasan's (because the right is limited by the constraints of possibility), I do think it is more demanding.

to treat people even in challenging circumstances and implemented projects that demonstrated that it was possible to achieve good treatment outcomes. Funding for TB treatment increased significantly. Because they demonstrated creative resolve, PIH helped expand global access to care. But what does the virtue require?

### **Creative Resolve**

Creative resolve is excellence in looking for, and implementing, means to fulfilling moral requirements including the right to health. The virtue strongly disposes people to think creatively about how to overcome obstacles to fulfilling significant moral requirements and to attempt to fulfill them where possible and permissible. More formally, those who have creative resolve: 1) question evidence that we cannot meet significant moral duties; 2) seek out creative ways to fulfill these duties; and 3) act to fulfill them<sup>2</sup>. To have the virtue, people must have the disposition to fulfill each condition where necessary and insofar as possible and permissible.

To fulfill the first condition for creative resolve, people must question evidence that we cannot meet significant moral duties. We must consider the evidence's source, reliability, and purported consequences. We must recognize, and attempt to counteract, impediments to evaluating the evidence – to avoid standard biases in decision-making. We must take into account the burdens of judgment that arise in addressing the justified claims that others make. What questions we must raise will depend on the nature of the evidence and the significance of the moral duties at stake. The idea is that we must have sufficient evidence to accept the claim that it is impossible or undesirable to fulfill these duties.

Take Jonathan Mann for example. Mann, the former director of the WHO Global Program on AIDS, advocated for a human rights-driven approach to fighting back AIDS. Mann forced the world to take responsibility for this global problem. When he encountered roadblocks, he questioned the limits of possibility by challenging the status quo. Mann resigned as the director of the Global Program charging the WHO director-general of failing to do enough to fight the disease. He also accused the National Institutes of Health of violating human rights because it was not doing fast enough research on new AIDS vaccines.

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<sup>2</sup> It does not matter for present purposes whether these dispositions amount to a single virtue or cluster of virtues. For simplicity, I will continue to talk about them as constituting the virtue. Partly because creative resolve is multi-dimensional, it is not just the mean between two extremes (Curzer, 2012). Resolve, or perseverance, falls between the extremes of apathy and overcommitment but it requires more commitment rather than less (King, 2014). And just as courage tends more towards recklessness than cowardice, creative resolve tends more towards the extreme of excessive creativity than its lack

To fulfill the second condition for the virtue, people must come up with creative ways to fulfill significant moral duties. We must consider all the options available and exercise moral imagination to find new ones. This requires resourcefulness, inspiration, innovation, and originality; our ideas cannot be trite, prosaic, uninspired, unexceptional, or uninteresting. Often, to have creative resolve, we must break free of custom and convention; we must exercise our creativity to find ‘new and worthwhile’ ways of overcoming barriers to fulfilling significant moral duties (Kieran, 2014: 205). Again, we should do this unless something more significant will be lost in the process.

For example, when a doctor visiting Liberia - Raj Panjabi - realized that many people simply could not get to the hospitals (they would have to take a day long journey to do so), he created a system of community health workers to provide for people who did not have immediate access to medical care. He co-founded the non-profit Last Mile Health committed to promoting the human right to health and serving the poor, the vulnerable, and the most marginalized to help train, equip, and pay community health workers around the world (Last Mile Health, 2020). It is important to come up with imaginative solutions such as this (as well as fulfill the underlying need for medical doctors), as they can be the deciding factor between life and death in developing countries.

The final condition for creative resolve requires acting to fulfill significant moral duties. People cannot just consider ways to overcome barriers to fulfilling these duties. They have to actually try to overcome them. We must persevere or persist *with serious effort* in the face of obstacles (King, 2014).

This feature of creative resolve is exemplified in the fight to eradicate polio, which the WHO African Region actually eradicated on August 25th of this year and, although many of leaders in the Global Polio Eradication Initiative – such as Larry Brilliant – themselves exemplify creative resolve, this campaign also demonstrates how we often best exercise the virtue together (Global Polio Eradication Initiative, 2020; TED, 2020; World Health Organization, 2020).<sup>3</sup> The fight against Polio was a truly grassroots endeavor from the start, but a major problem was, and continues to be, reaching remote locations. To overcome this, the polio eradication campaign has engaged in micro-planning, using satellite maps to ensure that every house in even the most remote communities received the vaccine, tracking transit communities, and marking

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3 In some cases, creative resolve may even involve collective action and amount to a collective virtue – e.g., when each individual intends to work together to secure intellectual or moral flourishing and every individuals’ action is necessary for doing so (Bratman, 1992). But even if the best way of understanding the claim that groups or institutions have creative resolve is reductive – perhaps it is leaders in institutional roles, for instance, who really have the virtue – solidarity supports this kind of creative action. Often, we can only overcome apparent tragedy by acting in solidarity with others and, in these cases, creative resolve requires doing so (Gould, 2018).

fingers. In some communities there was lack of engagement and others hostility from minority groups to the government. To get vaccinations to children, polio workers have taken many creative steps, from writing messages on brick kilns to sending mobile workers to nomadic populations and putting posts up at bus stations. Vaccinators would walk between houses marking them with chalk and the children with indelible ink. They tracked the virus with biological assay surveys and environmental surveillance to decide if cases were due to wild polio or the vaccine itself (some vaccine types produce a very small percentage of infections). In India, for instance, they essentially created a national shadow health system of more than 900,000 workers (Bartlett, 2014). Vaccinators were so creative and persistent that they employed town criers to walk through the streets and tell people about the vaccine, had parades in the middle of villages to let people know they were there, and gave children in Afghanistan their polio vaccinations at the circus (Brand, 2017).

Again, people must only fulfill each condition for creative resolve where necessary and insofar as (nomologically) possible and permissible. We must only question evidence that we cannot meet significant moral duties, search for ways to fulfill these duties, and try to do so when we lack sufficient evidence that we cannot do so in an acceptable way.<sup>4</sup>

Many of those who are personally (as opposed to politically) conservative lack creative resolve. As conservative Michael Oakeshott put it, conservatives ‘prefer the familiar to the unknown [...] the actual to the possible, the limited to the unbounded, the near to the distant, the sufficient to the superabundant, the convenient to the perfect, present laughter to utopian bliss’ (Oakeshott, 1962: 408). Rather than striving for the best results, conservatives embrace the status quo. They often do this because they endorse existing structures and institutions and do not value creative thinking (Salvi, et al., 2016). Still, duty bearers must try to reform these practices where necessary to fulfill significant moral claims unless they lack an acceptable way to do so.

I will argue below that everyone should have creative resolve but note, first, that those who do are (personally as opposed to politically) radical realists. Consider, again, how Mann famously galvanized the global movement to address the HIV/AIDS epidemic by arguing that work on human rights and public health connect intimately. ‘Mann argued that AIDS was a social disease, flourishing

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4 On this account of the virtue, epistemological judgments are sensitive to practical imperatives in the following way: before accepting the empirical claim that it is too difficult, or impossible, to fulfill a significant moral duty, people must demonstrate a good deal of ingenuity – we must have creative resolve. We cannot conclude that there is sufficient evidence that something is infeasible without significant creative thought. After all, depending on what we do, even what is infeasible at some time may be feasible at another (Brennan, 2013; Gilbert and Lawford-Smith, 2012; Gilbert, 2017). What matters is acting as morality actually requires not as one thinks it requires.

in conditions of poverty, oppression, urban migration, gender inequality, and violence [...] [and] advanced a new way of understanding AIDS and AIDS policies based on a human rights framework' (Fee and Parry, 2008: 54). As he described those committed to promoting health and human rights, they have creative resolve:

'People engaged in public health, like those concerned with human rights are, by definition, uneasy, uncomfortable, dissatisfied with the state of the world. We keep identifying things we think we should change.... We do so by seeking to change the "givens" of personal and social life, the inherited so-called "natural" order of things, the assumed "inevitable." Thus we continually call the status quo into question – and we have learned, slowly over time, that calling the larger societal status quo into question is the true task' (Mann, 1997: 1942).

Mann offered this description in arguing that for work on human rights to promote health it needs to draw 'upon a more sophisticated understanding of health, health status and health realities' (Mann, 1997: 1941). Similarly, Alicia Yamin argues that human rights require challenging apathy and using science to question 'deeply held assumptions' to transform the status quo (Yamin, 2016: 86). Still, those who have creative resolve do not radically change the status quo without paying attention to the facts on the ground and safeguarding basic rights and others that matter. Creative resolve is not blind faith.

### **The First Argument: Creative Resolve is Partly Constitutive of the Human Right to Health's Obligations**

Consider why human rights' duty bearers should have creative resolve – why they should try hard to fulfill the right's claims. If a right to health exists, duty bearers should fulfill the claims it generates. They should try hard to do so. Duty bearers should not fail to fulfill the right's claims even when tragedy seems unavoidable. The imperative to try to fulfill the human right to health's claims follows from a general observation: when they lack sufficient evidence that they cannot fulfill a significant moral claim, duty bearers should resolve to exercise their moral imagination in doing so. Even facing apparent tragedy, they should not fail to fulfill a significant moral claim on the assumption that they cannot overcome it.<sup>5</sup>

That is, human rights are (Hohfeldian) claim rights (where X has a claim that Y  $\phi$  if and only if Y has a duty to X to  $\phi$ ); they consist partly in important

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5 This argument may entail that states and other institutions should act virtuously, though it is possible to give a reductive account of this claim – focusing only on the responsibilities of individuals in appropriate institutional roles.

correlative duties, duties the rights-holder is entitled to claim (Wenar, 2013).<sup>6</sup> That is, human rights carry with them high priority-directed duties and fulfilling these duties requires creative resolve.<sup>7</sup> Those who have a duty to fulfill the right should try hard to do so (where necessary, possible, and permissible). To reliably fulfill the right, then, people must develop the disposition to question evidence against the possibility of fulfilling these claims, come up with creative ways of doing so, and put these ideas into action (where possible and permissible), that is, they must have creative resolve. That is, creative resolve is partly constitutive of the human right to health's duties. If the human right to health exists, it generates genuine claims, rarely undercut or overridden. Since the human right to health's grounds are so important, duty bearers should develop the resolve to exercise their moral imaginations in trying to fulfill these rights when lacking sufficient evidence that they cannot, or should not, do so.

Duty bearers should develop the disposition to try hard to fulfill significant moral claims given that people often fail morally because they do not question their assumptions. Significant psychological evidence suggests that people generally fail to consider enough alternatives in making decisions. Sometimes we lack moral imagination because we view feasibility too narrowly – assuming tight time frames and financial constraints. Some people are pessimistic about human nature, politics, or political philosophy. Moreover, when imagining ourselves succeeding in tasks, the evidence suggests we succeed more often – perhaps because fantasies, ‘imaginative projections’ influence our agency. For these reasons, duty bearers should often look for ways to overcome apparent tragic dilemmas. Human rights’ duty bearers might not (morally) have to have creative resolve in a different world where it is easy to fulfill everyone’s rights. In a very different world, everyone might have what they need without others’ assistance. Still, in our world, those responsible for protecting, respecting, and fulfilling the right should cultivate the disposition to do so. Given that so many people lack even basic health care and the absence of functioning health systems in many countries, it may be difficult to find ways to fulfill individuals’ rights to health without sacrificing something as important. If it is impossible for someone to cultivate the virtue, or doing so would have devastating consequences, I can also allow that that person should not do so (Conly, 2016). Still, insofar as possible and permissible duty bearers should try to fulfill individuals’ human

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6 As James Nickel puts it: ‘Most if not all human rights are claim rights that impose duties or responsibilities on their addressees or dutybearers’ (2021).

7 The idea is not that all rights are claim rights in the sense Wenar (2013) advocates. Again, I believe the argument I advance is compatible with different ways of conceiving of human rights’ nature and grounds.

rights to health.<sup>8</sup>

Some will question creative resolve's demandingness. It sets high evidentiary standards: even facing apparent tragedy, duty bearers should think creatively, and try to overcome obstacles to fulfilling the right's claims, barring sufficient evidence that they cannot do so in an acceptable way. One might argue that this standard is unrealistic. At least policy makers rarely have such certain evidence when making health care policy.

Creative resolve makes appropriate demands. If policy makers can secure the requisite evidence, they should do so. No one should make health care policy that results in people suffering or dying unless they really lack better options. Recall, however, that even creative resolve has its (internal) limits: When trying to fulfill the human right to health's claims (or actually fulfilling them) exceeds some moral cost threshold, perhaps policy makers (or other duty bearers) need not do so (Arneson, 1999). That is, duty bearers should stop searching for ways to fulfill these rights' claims when (they know) the search's moral cost outweighs the benefits. They must only fulfill the conditions for creative resolve where necessary and insofar as possible and *permissible*.

Duty bearers might generally determine when they need not pay the moral costs by considering competing human rights-based claims as opposed to considering benefits and harms in general. By restricting their view to competing rights-based claims, duty bearers recognize the fact that rights have a special role and status (they are 'high-priority norms') (Nickel, 2007). Although I cannot cash out and defend an account of how to resolve conflicting human rights-based claims here, there are many alternatives. One might consider the ways in which the claims affect individuals' ability to live minimally good lives (and other grounds for human rights). Alternatively, one might embrace another way of resolving apparent conflicts and determining rights' limits as well (Waldron, 1993).

That fulfilling other human rights (and significant duties) requires creative resolve poses no problem for the current argument; it enhances its importance. Other human rights may even play an important role in international affairs because they should, and often do, give rise to this virtue. We may need creative resolve to fulfill these rights because their grounds or (other) functions are so important. That said, where moral claims' implications are indeterminate, our actions' effects remote, their significance ambiguous, and countervailing

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8 One cannot object that creative resolve does not follow from the rights obligations, but rather from the non-ideal situation in which people lack even basic health care and health institutions and others are failing to provide these things. However, there must be an obligation in play to generate creative resolve (creative resolve is only required for people to fulfill significant moral imperatives) and the right provides that obligation.

considerations prominent, the vices creative resolve counters are prevalent. Creative resolve is especially important for realizing the human right to health.

### **The Second Argument: The Human Right to Health in Practice**

What does the human right to health that fosters creative resolve do for people? I believe that we should embrace the idea that human rights' duty bearers should have creative resolve because it often helps those committed to fulfilling the right do so. I have already provided some examples of how this happens above, but this section provides a few more. It argues that the right often helps human rights claimants, advocates, and duty bearers 1) question evidence that they cannot fulfill its dictates, 2) come up with creative ways of doing so, and 3) promote health.

First, human rights claimants, advocates, and duty bearers often help fulfill the right to health because they question evidence that they cannot do so. People rely on the human right to health to criticize immigration and trade policies, international aid conditionality, insufficient scientific R&D on drugs for the world's poor, the way companies conduct clinical trials, and so forth (Cole, 2009; Flory & Kitcher, 2004). Such criticism informs efforts to better protect, respect, and fulfill rights (MSF Access, 2011).

Second, when human rights claimants, advocates, and duty bearers commit to fulfilling human rights, they often think creatively about what they need to do. Human rights claims ground proposals for positive change like the Framework Convention on Global Health – a new treaty to promote global health (Gostin et al., 2013). Or, the Global Health Impact proposal, which provides new human rights indicators to help set clearer targets, evaluate performance, and fulfill health needs ([global-health-impact.org/new](http://global-health-impact.org/new)) (Hassoun, 2015a, 2016, 2020, 2020c, 2020d).

Finally, when they embrace the human right to health, human rights claimants, advocates, and duty bearers often promote health. Consider how international monitoring bodies, lawyers in national and international courts, and civil society/political advocacy groups rely on the right to improve health. They use human rights indicators and soft administrative law to name and shame, as well as incentivize governments, international organizations, corporations, and other agents to respect, protect, and fulfill these rights. Human rights advocates show ingenuity and persistence in combating health crises. Activists empower patients, expand health care access via community health workers, increase the market for lower cost generic medicines, put new proposals for innovative R&D mechanisms on the table, and create new funding bodies like PEPFAR, the Global Fund, and UNITAID to improve care for many conditions in poor

countries (Davis, 2015).

Consider an example of how creative resolve has aided activists in overcoming apparently impossible barriers to helping people meet basic health needs. Since 2000, more than five million people have secured access to treatment for HIV/AIDS in developing countries partly due to a global movement to extend access to essential medicines around the world. Human rights-based organizations, like South Africa's Treatment Access Campaign (TAC), protested when pharmaceutical companies resisted attempts to get lower prices (Heywood, 2009). They refused to accept that price reductions were impossible. TAC then came up with and implemented innovative programs to educate patients and, linking 'information about health [...] to rights, empowered marginalized people who began to assume both a public voice and a visibility' to demand access to treatment (Heywood, 2009: 18). First-line medicines' cost fell from \$12,000/patient year to approximately \$1000/year (Jewell, 2016). Competition forced prices down further. By 2001, a generic company, CIPLA, offered first-line antiretrovirals (ARVs) for less than \$350/per year (t'Hoen et. al., 2011). CIPLA's CEO lowered prices because he cared about fulfilling rights and producing drugs for the poor at reasonable cost (t'Hoen et. al., 2011).

In fact, creative resolve is a bedrock of almost every major response to a public health crisis: Not only TB, HIV, and the polio eradication campaign, but our global response to Ebola and many other (only partly successful) efforts to eradicate malaria and other neglected diseases have all succeeded (where they have) because their proponents have demonstrative creative resolve in the face of apparent tragedy.

Moreover, creative resolve can help us respond to the threat of future tragedy including the Coronavirus pandemic. Consider how creative resolve can help address the epidemic in the US. The epidemic did not come out of the blue. The World Health Organization has been warning countries to prepare for a resurgence of virulent flu and other potential pandemics for many years (Beaubien, 2016). Moreover, the Coronavirus threat was clear since the start of the year and the first case arrived in the US on January 19th (Newey and Gulland, 2020). Even though community transmission in the US was not apparent until early March, enough commitment to protecting everyone's human rights to health at that point might have saved tens of thousands of lives (Madrigal and Meyer, 2020). Even today, governmental and nongovernmental organizations – like the Gates Foundation – should be trying hard to come up with creative new ways to meet projected needs. At a press conference on March 24 (three days before I wrote these words) Governor Cuomo predicted

that New York would need 30,000 ventilators and said that he had only been able to find 7,000 so far (Hellmann, 2020). He said ‘There is no other way for us to get these ventilators [...] We’ve tried everything else. The only way we can obtain these ventilators is from the federal government. Period’ (cited in Farley, 2020). President Trump replied that Cuomo was ‘complaining,’ and said the federal government was ‘doing probably more – definitely more for [New York] – than anybody else.’ So, although the President said the government will continue to help New York, Governor Cuomo ‘is supposed to be buying his own ventilators’ (Farley, 2020). Instead of fighting with each other (and given that the virus will likely come in several waves as we relax social distancing efforts), we should be working on making ventilators and training people to use them. We should also continue finding new ways to use existing equipment to help more people and repurposing other equipment to meet this need. It might also be possible to move ventilators to the people who need them if we cannot move the people to the ventilators (between states or even nations). Thinking like a global community may help ensure the available resources have the greatest global health impact. We cannot save everyone, but creative resolve can help us save as many people as possible.

In some respects, even the current response to COVID-19 bears the hallmark of creative resolve, though it does not go far enough. Millions of people *have* adopted creative new ways of fighting (and living in response to) the virus and this will save many lives (even though these efforts do not suffice on their own to overcome tragedy). But many states failed to take decisive and creative action early enough and many reopened prematurely.

That said, we must not just try hard to save lives but to protect everyone’s livelihoods and futures to ensure that our response to the pandemic does not cause more suffering than the disease. Recall that the virtue contains some internal constraints: it specifies that duty bearers should only persist in trying to fulfill the human right to health’s duties insofar as possible and otherwise permissible. We have not provided the kind of support necessary to mitigate the economic impacts of our policy response. Tens of millions filed for unemployment in the US in the first few months of the crisis alone. Creative resolve might have suggested adopting innovative mechanisms like those many European countries employed to provide relief through salary support. Alternately, perhaps we could have helped move many businesses and schools outside during the summer rather than closing them. And, in developing countries, it is still essential that we provide international development aid to ensure that the COVID response does not exacerbate other problems like tuberculosis, HIV/AIDS and malaria epidemics.

Although it has its limits, I stress the virtue's positive – commitment - side here, because I believe people need to try harder to fulfill everyone's human rights: Most of those obligated to fulfill individuals' human rights to health do not try hard enough. Besides cultivating the resolve to combat the coronavirus crisis and finding new ways to live together while apart in these trying times, we can also come up with creative new possibilities. More radical alternatives might include finding ways to really support those at-risk during isolation while allowing others to return to normal life. And we should try to implement new mechanisms for faster drug development and distribution not only to fight the coronavirus pandemic but to ensure everyone can access essential medicines for all of the world's terrible (and often neglected) diseases. Given that millions still lack access to even basic health care, the human right to health demands that, like Martin Luther King, we 'refuse to believe that the bank of justice is bankrupt' (Martin Luther King, 1963).

### **Conclusion**

The human right to health can help us respond to tragedies like the Coronavirus pandemic because it gives rise to the virtue of creative resolve. Many ways the human right to health is, and might be, used to bring about positive change in international affairs depend on inspiring beneficiaries to stake their claims, advocates to rise to its defense, and duty bearers to fulfill obligations. These claimants, advocates, and duty bearers have great hopes. They believe in seeking a brighter future in which everyone can secure at least a basic minimum of health. The human right to health inspires the resolve of human rights claimants, advocates, and duty bearers to come up with creative ways to fulfill its claims and overcome apparent tragedy.<sup>9</sup>

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