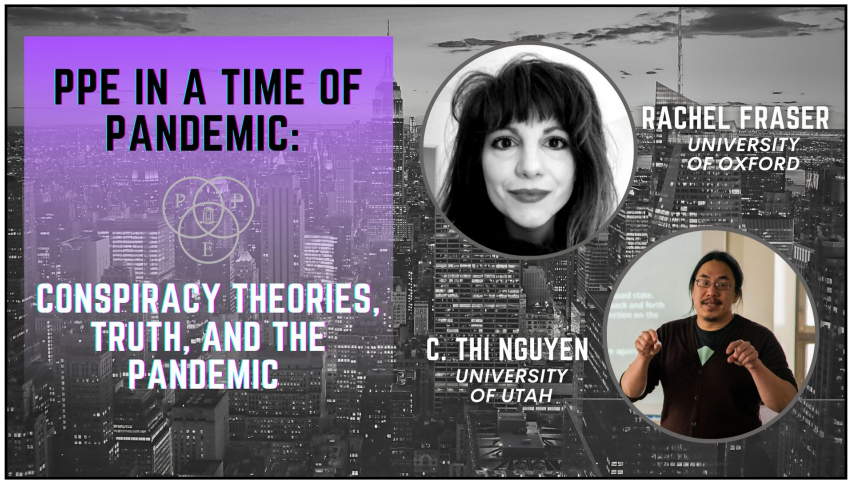
# Age & Fair Innings

**PHIL 334: Pandemic Ethics**




## PPE in a Time of Pandemic

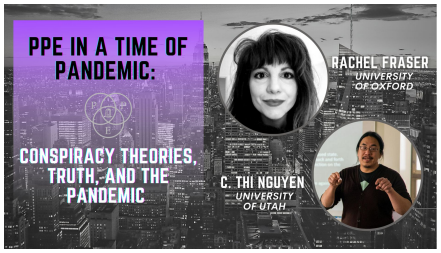
Thursday, March 18th

1pm ET / 10am PT

https://ppe.unc.edu/event/ppe-in-a-time-of-pandemic-conspiracy-theories-truth-and-the-pandemic/

*Come for the bonus points,*
*Stay for the knowledge!*

Rachel Fraser (Oxford) and C. Thi Nguyen (University of Utah) on Conspiracy Theories, Truth, and the Pandemic




**Review:**
Age-related Health Rationing

BIOETHICS FORUM ESSAY

## Why I Support Age-Related Rationing of Ventilators for Covid-19 Patients

by Franklin G. Miller

## Coronavirus: allocating ICU beds and ventilators based on age is discriminatory

April 22, 2020 7.21am EDT •Updated April 22, 2020 9.29am EDT

As the COVID-19 pandemic has increased the demand for intensive care unit (ICU) beds and ventilators, healthcare systems around the world are looking for ways to allocate these life-saving resources. A **decision-support tool** for NHS staff adds points for age, frailty (depicted with stereotypical images of elderly people), and existing health problems (also **correlated with age**) to determine who gets an ICU bed first. Doctors in **Italy**, **Spain** and **Sweden** have also been prioritising younger over older patients. But is this treatment morally acceptable?

Doctors are not alone in thinking that age can be a legitimate criterion for treating people differently. After all, age is correlated with cognitive ability, including the ability to make sound judgements, which is why we use it to deny children the right to vote and we force airline pilots and air traffic controllers to retire early.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# In Defense of Age-related Rationing


BIOETHICS FORUM ESSAY

## Why I Support Age-Related Rationing of Ventilators for Covid-19 Patients

by Franklin G. Miller


## In Defense of Age-related Rationing

Grim **prospects** for elderly patients needing ventilation.

While outcomes data are meager at this point, they suggest a grim prospect for elderly patients needing mechanical ventilation. A single medical center in Wuhan, China described intensive care outcomes for 52 patients. Of that total, 37 patients received mechanical ventilation, and 30 of them, 80%, died during the 28-day follow-up. Of 10 patients aged 70 and older, only 1 survived. A much larger data set reporting outcomes for 1591 patients in ICUs in Lombardy, Italy between February 20 and March 18, 2020, demonstrated considerably higher rates of mortality depending on age: 29% for those 61-70; 40% for those 71-80; and 55% for those 81 and older. However, many patients in those age groups remained in the ICU at the time the study was completed. For the 22 patients aged 81 and over, 12 had died (55%); 2 had been discharged (9%); and 8 (36%) remained in the ICU. If half of those remaining in the ICU in that age group subsequently died, the overall mortality rate would be 73%; if all of them died, it would be 91%.

## Things That (Might) Matter

Grim **prospects** for elderly patients needing ventilation.

- What are the patient's **chances of survival**?
- What is the patient's **life-expectancy** (if they survive)?
- What will the patient's **quality of life** be like (if they survive)?
- How **old** is the patient? (Why might this matter?)
- How much **overall happiness** would be produced?

What **else** might matter?

## In Defense of Age-related Rationing

Other things being equal, the young have **much more to lose** from death than the elderly.

In addition to older patients having a relatively poor prognosis, the number of years of life that they have had the opportunity to experience supports an age criterion for rationing ventilators. Other things being equal, the young have much more to lose from death than the elderly. I would suggest that an initial age criterion for rationing ventilators when the demand outstrips the supply is a cut-off of 80.Eighty years of age is just above the average life expectancy in the U.S., which is 79 years old. It seems fair to say that people who have reached that milestone have enjoyed an opportunity to live a complete life. On average, not many years of life with relatively good health and functioning are left to those aged 80.

## Things That (Might) Matter

Other things being equal, the young have **much more to lose** from death than the elderly.

- What are the patient's **chances of survival**?
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## Things That (Might) Matter

Miller doesn't make this point, but you could imagine that similar age-related considerations would apply to **quality of life** as well.

- What are the patient's **chances of survival**?
- What is the patient's **life-expectancy** (if they survive)?
- What will the patient's **quality of life** be like (if they survive)?
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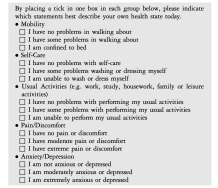

By placing a tick in one box in each group below, please indicate which statements best describe your own health state today.

- Mobility
  - ☐ I have no problems in walking about
  - ☐ I have some problems in walking about
  - ☐ I am confined to bed
- Self-Care
  - ☐ I have no problems with self-care
  - ☐ I have some problems washing or dressing myself
  - ☐ I am unable to wash or dress myself
- Usual Activities (e.g. work, study, housework, family or leisure activities)
  - ☐ I have no problems with performing my usual activities
  - ☐ I have some problems with performing my usual activities
  - ☐ I am unable to perform my usual activities
- Pain/Discomfort
  - ☐ I have no pain or discomfort
  - ☐ I have moderate pain or discomfort
  - ☐ I have extreme pain or discomfort
- Anxiety/Depression
  - ☐ I am not anxious or depressed
  - ☐ I am moderately anxious or depressed
  - ☐ I am extremely anxious or depressed

# Objection:
Is this age discrimination?

# Response:
It's not *age* that matters; it's ...

## Age-related Rationing is Discriminatory

**Criteria: Chance of Survival, life-expectancy, quality of life**

Bioethicists argue that **poor prognosis (etc.)** should be the main allocation criterion for treatment during a crisis.

If age correlates with this, then using it is not discriminatory.

**Objection:**
Both sex and race are reliable indicators of poor prognosis for COVID-19 patients.

It would be morally unacceptable to use sex or race for rationing urgent care, regardless of how accurate they are as proxies.

## Age-related Rationing is Discriminatory

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**What do you think?**

Is this *not* age discrimination?

"If age correlates with [...], then using it is not discriminatory."

**Is that true?**

[Chance of Survival]

[life-expectancy]

[quality of life]

## Age-related Rationing is Discriminatory

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**Response:**
Age is importantly different from sex and race.

**How so?**
We will be different ages throughout our lives (but not sexes and races).

**Why does this matter?**
Everyone gets a turn...

"Age may be treated differently from sex or race because **people move in and out of age groups throughout their lifetime**. If an age group is worse off than others, this isn't necessarily a problem as everyone's turn at being discriminated against comes at some point."

## Age-related Rationing is Discriminatory

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**Age and Lifespan:**
Treating people differently based on age can be a way of treating people equally across their whole lives.

"A rule that prioritises under-65s for life-saving resources would not be treating over-65s unfairly because they, too, were prioritised when they were younger."

## Age-related Rationing is Discriminatory

**Age and Lifespan:**
Treating people differently based on age can be a way of treating people equally across their whole lives.

**Response:**
This assumes that the resources one has access to remains the same over a lifespan.

"A 76-year-old British male will not have had access to universal healthcare for the first four years of his life, before the NHS was founded (1948). The odds that someone in his generation would die within their first year were higher than they are today. Also, as ECMO (a way of adding oxygen to blood) was not widely used in adults for the first 65 years of his life, **denying him access now does not accomplish equality but exacerbates the inequality of being born before key technological advancements**."

## Age-related Rationing is Discriminatory

**Age and Lifespan:**
Treating people differently based on age can be a way of treating people equally across their whole lives.

**Response:**
This assumes that the resources one has access to remains the same over a lifespan.

**What Do You Think?**
Is age-related rationing discriminatory (even when age is just a proxy for other moral considerations)?

# Can **age** itself matter?

## In Defense of Age-related Rationing

It seems fair to say that people who have reached that milestone [80 years old] have enjoyed an opportunity to live **a complete life**.

In addition to older patients having a relatively poor prognosis, the number of years of life that they have had the opportunity to experience supports an age criterion for rationing ventilators. Other things being equal, the young have much more to lose from death than the elderly. I would suggest that an initial age criterion for rationing ventilators when the demand outstrips the supply is a cut-off of 80.Eighty years of age is just above the average life expectancy in the U.S., which is 79 years old. It seems fair to say that people who have reached that milestone have enjoyed an opportunity to live a complete life. On average, not many years of life with relatively good health and functioning are left to those aged 80.

## Things That (Might) Matter

- What are the patient's **chances of survival**?
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- How **old** is the patient? (Why might this matter?)
- How much **overall happiness** would be produced?

What **else** might matter?

It seems fair to say that people who have reached that milestone [80 years old] have enjoyed an opportunity to live **a complete life.**

# Fair Innings

Should we privilege the **young** over the **old** when rationing scarce healthcare resources?

## Utilitarian Ageism

Suppose you have to choose between giving the life-saving drug to:

(A) a 20-year old (who will live for many years if she gets the drug)
(B) a 70-year old (who will live for only a few more years if she gets the drug)

What should you do?

## Utilitarian Ageism

Suppose you have to choose between giving the life-saving drug to:

(A) a 20-year old (who will live for many years if she gets the drug)
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What should you do?

**Utilitarian Ageism:**
"Saving a person who has many years ahead of her **does more good**. … Since younger people have greater life expectancies, discriminating in favour of them is justified on **benefit-maximizing** grounds."

## Things That (Might) Matter

Other things being equal, the young have **much more to lose** from death than the elderly.

- What are the patient's **chances of survival**?
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## Things That (Might) Matter

It seems fair to say that people who have reached that milestone [80 years old] have enjoyed an opportunity to live **a complete life.**

- What are the patient's **chances of survival**?
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- How much **overall happiness** would be produced?

What **else** might matter?

## Age & Fairness

Suppose you have to choose between giving the life-saving drug to:

(C) a 20-year old (who will live for 10 more years if she gets the drug)
(D) a 70-year old (who will live for 10 more years if she gets the drug)

What should you do?

# Why does **age** matter?

## How Does Age Matter?

Suppose you have to choose between giving the life-saving drug to:

(E) a 30-year old (who will live for 10 more years if she gets the drug)
(F) a 40-year old (who will live for 10 more years if she gets the drug)

What should you do?

Doesn't the 30-year old patient have a complaint if she is not given priority compared to the 40-year old patient? After all, she has had less life than the 40-year old. Isn't that unfair?

**Response:**
The Mile Running Analogy

## The Mile Running Analogy

Finishing the mile is not just valuable because you have run 1,609 meters. It is valuable because **it is an achievement**.

But the value of that achievement does not come at any particular part of the distance.

It comes from completing the whole distance.

Thus, it is no more of an achievement to have reached 1,600 meters than it is to have reached 1,599 meters.

## The Mile Running Analogy

Similarly, much that is valuable in life does not accumulate like steps taken toward the mile. The full value that bringing up children, or writing a book, or undertaking some important project brings to a life only appears at their completion. If these plans and projects cannot be completed, you lose more than the value they would bring in the time until their completion. **You lose the value of the whole**, **completed project**. That value cannot be 'decomposed' and distributed between different phases of the project. This is why a complete life is valuable. Death at the end of a complete life is **regrettable**, but not a **tragedy**. **Death before a life can be complete is a tragedy.**

# The Fair Innings Argument

John Harris

1. There is some number of years that constitutes a reasonable life: **a fair innings**.

2. It is always a **misfortune** to die when one wants to go on living.

3. It is not a **tragedy** to die in old age.

4. It is **both** a tragedy and a misfortune to be cut off before reaching old age.

5. We should, all else being equal, choose mere **misfortune** over **both**.

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## How Does Age Matter?

Suppose you have to choose between giving the life-saving drug to:

(E) a 30-year old (who will live for 10 more years if she gets the drug)
(F) a 40-year old (who will live for 10 more years if she gets the drug)

What should you do?

Neither patient has been given **Fair Innings**.

"Death at the end of a complete life is regrettable, but not a tragedy. Death before a life can be complete is a tragedy."

In this case, no matter what we do, it is a **tragedy**.

# A Further Problem

## How Does Age Matter?

Suppose you have to choose between giving the life-saving drug to:

(G) a 30-year old (who will live for 10 more years if she gets the drug)
(H) a 60-year old (who will live for 10 more years if she gets the drug)

What should you do?

Neither patient has been given **Fair Innings**.

"Death at the end of a complete life is regrettable, but not a tragedy. Death before a life can be complete is a tragedy."

## How Does Age Matter?

Suppose you have to choose between giving the life-saving drug to:

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(H) a 60-year old (who will live for 10 more years if she gets the drug)

What should you do?

Neither patient has been given **Fair Innings**.

"Death at the end of a complete life is regrettable, but not a tragedy. Death before a life can be complete is a tragedy."

In this case, if you choose H, one person will be given Fair Innings; but, if you choose G, neither will be given Fair Innings.

Should you then choose H?