

Considering Access to Health Care in the Public Sphere

When President Obama set out to tackle the challenge of health care reform via the advancement of the Patient Protection and Affordable Care Act (PPACA), he not only made the case that the American health care system was in dire need of repair, he also suggested that equitable access to health care is a right that should be afforded to all Americans. He advanced the proposition that all citizens have an understandable and legitimate aspiration to good health, and implied that, as a community, Americans have a responsibility to support one another in that aspiration. Since the passage of the PPACA, though, a firestorm debate has raged over whether or not the government has any business in assuring access to health care. The powerful reaction against the PPACA, which expanded to health care reform in general, suggests that Americans do not accept the proposition that access to health care is an entitlement worthy of governmental protection.

The question, then, is to what extent is the American public's rejection of ensured access to health care legitimate? Various organizations, including the United Nations and the World Health Organization, have agreed that a human right to health does exist. If something is a right, then the implication exists that the thing being considered is sacrosanct and immune to revision by humans. However, to the extent that rights are a human invention, communities must ultimately decide what entitlements are worthy of enshrinement as rights. Since the United States is a liberal society, and therefore seeks to allow its citizens to pursue independent conceptions of "the good life," citizens could decide, through wide consensus, that access to health care is not a component that is universally necessary for pursuing the good life.

In *Reason and Morality*, American philosopher Alan Gewirth formulates what he refers to as the Principle of Generic Consistency (PGC), which he believes provides a rational basis for

making moral determinations about rights and needs. According to Gewirth, an individual requires certain rights, namely freedom and well-being, in order to achieve the goals and purposes that constitute the individual's personal conception of the good life. As a rational being, the individual must accept that he or she needs those rights in order to be purposive, and must also afford those same rights to other purposive individuals. Denial of those rights to other purposive individuals constitutes an act of self-contradiction, which indicates that the individual engaging in the denial of rights to others is not a rational being who behaves in an equitable manner. It is from this that the PGC, which states that individuals have a rational obligation to behave in a way that respects both their own rights, as well as the rights of others, is thus derived (1978, 133-135).¹

The PGC is a useful tool in considering whether or not access to health care is something to which citizens ought to be entitled because it allows us to determine whether or not individuals are being consistent and rational in their rejection of access to health care as a right or entitlement. Foundational to the PGC is the idea that broad consensus can be achieved regarding rights that are necessary to ensure agency, and therefore the ability to pursue an independent conception of the good life. Thus, if individuals agree with the notion that good health is necessary to pursuing the good life, and if they insist upon their own access to health care, then they have a responsibility to afford that access to others. It is only when individuals cease to insist upon their own access to health care that they are able to shed that responsibility. Michael Walzer, a political philosopher, follows a similar line of thinking, telling us that we can sacrifice "public impoverishment for the sake of private affluence," but only when the negative consequences associated with public impoverishment are broadly spread across all sectors of

¹ Gewirth, Alan. 1978. *Reason and Morality*. Chicago: University of Chicago Press, 133-135.

society.² Based on this, citizens very well could reject the idea that access to health care is a right, provided that the consensus on the matter is wide and that no single group, such as the poor, is disproportionately disadvantaged.

Since President Obama's enactment of the PPACA, substantial attention has been paid to how a large number of citizens, if not a majority, reject the Act, and, more generally, governmental provision to ensure access to health care. As of 2013, 56% of surveyed individuals reported that they did not feel that it was the responsibility of the government to ensure that all Americans have access to health care.³ Some might say, then, that the American people have spoken and reject the assertion that access to health care is a basic right. This is, however, an inchoate conclusion, and, as we will see, an illegitimate rejection of the right to access to health care.

To begin, this percentage is a scant majority, and represents a relatively nascent consensus. In 2006, 69% of respondents answering the same survey question felt that health care access was a governmental responsibility.⁴ This alone is not necessarily damning evidence, as it could be that the rejection of health care access is an emerging movement. However, this consensus is not widely shared among all groups in society, and the increase in the frequency of citizens rejecting governmental involvement in health care is primarily due to shifts in Republican opinion. To be clear, all partisan affiliations saw an increase in the rejection, but it was most marked among Republicans. In 2000, 53% of Republicans reported that health care access was not a governmental responsibility, but by 2013, that percentage had risen to 86%,

² Walzer, Michael. 1986. "Justice Here and Now." In *Justice and Equality Here and Now*, ed. Frank S. Lucash. Ithaca: Cornell University Press, 136-150.

³ Wilke, Joy. 2013. "Majority in U.S. Say Healthcare Not Gov't Responsibility." November 18. <http://www.gallup.com/poll/165917/majority-say-healthcare-not-gov-responsibility.aspx> (April 20, 2014).

⁴ Ibid.

compared to 55% for Independents and 30% for Democrats, from 27% and 19%, respectively.⁵ It is here that the evidence begins to coalesce against the notion that Americans are rejecting the right to access to health care in a legitimate fashion.

Another analysis of partisan trends, among other things, noted that some factors affect an individual's odds of rejecting the PPACA. The analysis found that Republicans are 17 times more likely to reject the PPACA than Democrats, and that whites are four times more likely to reject the PPACA than nonwhites.⁶ In light of these trends, it seems likely citizens may be being informed by their political affiliations, rather than the other way around. This reflects a potential lack of consideration for public philosophy on an issue-by-issue basis, which would suggest a lack of comprehension about any given issue. More problematic, though, is the pattern of a narrower consensus about rejection of health care access. A majority may support a rejection of governmentally-ensured access to health care, but it is a capricious majority, and one that stands in stark opposition to its opponents, invoking concerns about a tyranny of the majority. From a perspective purely concerned with the quality of democratic processes, this may be cause for concern, but in terms of our discussion here, this information only suggests, rather than shows, that groups are disproportionately disadvantaged by lack of an ensured access to health care.

Fortunately for my argument, though unfortunately for around 46 million Americans, another Gallup analysis found that roughly 15% of Americans lack health care insurance, but some groups are far more present in that 15% than others. For example, 41.5% of Hispanics, 20% of African-Americans, and 28.6% of individuals making less than \$36,000 income reported that they did not have insurance. On the other side, older individuals were more likely to have

⁵ Ibid.

⁶ Dugan, Andrew, & Newport, Frank. 2014. "Politics Are Biggest Factor in Views of Healthcare Law." April 1. <http://www.gallup.com/poll/168170/politics-biggest-factor-views-healthcare-law.aspx> (April 20, 2014).

insurance than younger individuals, and only 8.8% of individuals with an income of \$36,000 to \$89,999 and 4.5% of individuals with an income of \$90,000 or more were found to lack insurance.⁷ It is also worth considering how individuals with higher incomes will have an easier time handling the costs of health care than individuals with lower incomes, regardless of whether or not the individual has health insurance. It is clear that the negative consequences associated with rejecting the right to access to health care weigh more heavily on some groups than others, and even suggests that the United States is still locked in a firm struggle with its racial and socio-economic ascriptivist tendencies. Consequently, it cannot be said that the trend toward rejection of the right to access to health care is legitimate, because the rejection appears to be both related to partisan affiliation, a lack of regard for the well-being of others within the community, and, as we shall soon see, a general lack of comprehension regarding the nature and importance of governmental provision.

Not only is there a violation in terms of how the impoverishment of lack of health care access is shared, there is a lack of rational and equitable behavior on the part of at least some of those rejecting ensured access to health care. As I pointed out earlier, a rejection in affording everyone access to health care may be justifiable if people generally surrender their own right to access to health care. That is not a phenomenon that is occurring here. Most Americans (69%) believe that the health care that they personally receive is of good quality, but only 32% think that overall coverage in the country is also of good quality. The implication is that people think

⁷ Newport, Frank, & Mendes, Elizabeth. 2009. "About One in Six U.S. Adults Are Without Health Insurance." July 22. <http://www.gallup.com/poll/121820/One-Six-Adults-Without-Health-Insurance.aspx> (April 20, 2014).

health care reform is necessary to improve the lot of others, rather than their own personal lot.⁸ Simply put, “Americans are not convinced that healthcare reform will benefit them personally.”⁹ However, when asked to determine if the PPACA improves the lot of certain groups, a majority of respondents identified that the PPACA is helpful for people who lack insurance and people who get sick, while worsening the situations of “you [the respondent], personally,” doctors, people who currently have insurance, and taxpayers.¹⁰ The overall response to health care reform, which generally involves improving access to health care for all individuals, reveals that people who already have health care access privileges, and who know that other people lack those same privileges, are unwilling to make sacrifices themselves or to compel others to do the same in order to afford those privileges to those who lack them. While understandable from the perspective of someone who is trying to maximize his or her own economic resources, this behavior is irrational, and therefore unacceptable, in a Gewirthian framework emphasizing public reason, again demonstrating that the present trend toward rejection of ensured access to health care is illegitimate.

The attitude that Americans appear to hold about access to health care is indicative of another trend that merits discussion. The desire for a small or minimal government has been a consistent theme throughout America’s history, with many Americans today expressing distrust or a lack of faith in the government. A 2011 World Values Survey revealed that respondents generally favored the idea that individuals should be expected to provide for themselves, while

⁸ Newport, Frank. 2013. “Americans' Views of Healthcare Quality, Cost, and Coverage.” November 25. <http://www.gallup.com/poll/165998/americans-views-healthcare-quality-cost-coverage.aspx> (April 20, 2014).

⁹ Newport, Frank. 2009. “Americans on Healthcare Reform: Top 10 Takeaways.” July 31. <http://www.gallup.com/poll/121997/Americans-Healthcare-Reform-Top-Takeaways.aspx> (April 20, 2014).

¹⁰ Gallup. 2013. “Healthcare System.” <http://www.gallup.com/poll/4708/healthcare-system.aspx#4> (April 20, 2014).

65.3% of respondents either lacked or had no confidence in the national government.¹¹ Other surveys found that 1) most Americans would accept a reduction in “government involvement in the nation’s problems” in exchange for lower tax rates; 2) 64% feel that citizens depend too much on the federal government; 3) 73% believe that “businesses can do things more efficiently than the government; and 4) a scant 36% believe that the government is “fairer and more just” than businesses.¹² This data provides ample support for Marmor, Mashaw, & Pakutka’s belief that “Americans have forgotten or never understood why, when, and where social insurance makes sense.”¹³ I am reminded of a satiric narration that has made its way around the Internet, beginning, “This morning I was awoken by my alarm clock, powered by electricity generated by the public power monopoly regulated by the US Department of Energy.” The narrator takes care to document each activity that he or she engages in, and discusses how that activity was supported by what could be considered government benefits. The narrator finishes his story with the line, “I then log on to the Internet, which was developed by the Defense Advanced Research Projects Administration, and post on Fox News forums about how socialism in medicine is bad because the government can’t do anything right.” Partisan spat aside, whoever originally penned that story clearly expresses the problem being confronted: citizens sometimes appear totally unqualified or unprepared to make informed and rational decisions about national issues.

This treatment depicts most Americans as cold, uncaring, and uncharitable, though, and that is not necessarily the truth. Plenty of reminders exist to reinforce the idea that Americans do

¹¹ WORLD VALUES SURVEY Wave 6 2010-2014 OFFICIAL AGGREGATE v.20140429. *World Values Survey Association* (www.worldvaluessurvey.org). *Aggregate File Producer: ASEP/JDS, Madrid*. (April 20, 2014).

¹² Gallup. 2014. “Government.” <http://www.gallup.com/poll/27286/Government.aspx#1> (April 30, 2014).

¹³ Marmor, Theodore R., Mashaw, Jerry L., & Pakutka, John. 2014. *Social Insurance: America's Neglected Heritage and Contested Future*. Los Angeles: Sage Publications, 8.

understand the plights that their neighbors experience, and many Americans choose to support their neighbors in their struggles. As Marmor, Mashaw, & Pakutka note, almost everyone has seen or heard about some sort of fund-raiser to help an individual experiencing a crisis.¹⁴ On the one hand, this could be reflective of Americans' strong preference for voluntary, rather than compulsory, charity. On the other, the "preference" for voluntary charity may be an indicator of the aforementioned ascriptivism in America, where a WASPish majority assumes that government benefits go to the "unworthy" or "undesirables," and therefore prefers to voluntarily donate to a neighbor whom they know to be a worthy individual who has merely fallen on hard times. In any case, it remains clear that the American people are in no position to make a legitimate rejection of the right to access to health care, as they are, at best, well-intentioned but irrational and misinformed, and, at worst, prejudiced and willing to engage in hypocrisy. When it comes to assessing rights and entitlements, it seems that a mere popular consensus may not do, and this is a troubling prospect for democracy.

I do not claim that the PGC is necessarily the best way to reason through access to health care in the public sphere, but I do assert that it is compatible with the idea of deliberative democracy, and certainly preferable to the lack of reasoning exhibited by most in their potentially arbitrary rejection of equitable access to health care. A shallow conception of democracy focuses on the idea that a community changes in accordance with the will of the majority. The problem with this conception, as noted by many previous political philosophers, is that the majority may make decisions that oppress others, thereby generating a tyranny of the majority. Democracy is better understood as a system in which actors must provide compelling reasons for favored actions. According to Gutmann and Thompson, reasons for pursuing a course of action "should appeal to principles that individuals who are trying to find fair terms cannot

¹⁴ Ibid., 107.

reasonably reject.”¹⁵ Consequently, it is not sufficient to merely have an opinion about an issue, nor is it acceptable to justify decisions solely on the basis of partisan affiliations. Similarly, individuals must understand an issue and why or why not a course of action is justified.¹⁶ When these conditions are not met, it cannot be said that a community is making a decision in a legitimate fashion.

We have at our disposal centuries of knowledge, and with the technological advances of recent decades, we have the means to collect and comprehend massive amounts of data, which only furthers our collective knowledge. We have no excuse to forgo using this knowledge to publicly deliberate over the most appropriate courses of action, whether it be with regard to equitable access to health care or any other issue that merits public concern.

¹⁵ Gutmann, Amy, & Thompson, Dennis. 2010. “What Deliberative Democracy Means.” In *The Political Theory Reader*, ed. Paul Schumaker. Malden: Wiley-Blackwell, 280-283.

¹⁶ *Ibid.*, 281.