



## Is Healthcare the right to life or a privilege?

- A study on President Obama's healthcare reform and how it can improve the quality of economic Human Rights in the USA

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Human Rights  
Fall Term 2009

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# Abstract

The aim of this thesis is to examine how President Obama wants to establish health care reform in the United States of America and ultimately, to look at how health care reform will improve economic human rights. The thesis discusses Obama's plan and the challenges he faces while presenting arguments from a neo-liberal theory and also using a human rights perspective as a supporter of health care reform. By the use of President Obama's official White House speeches on health care, an analysis of these speeches has been made to extract Obama's intention and the use of preparations he uses to present the idea of reform and its benefits. Through analysis of Obama's public speeches and arguments from theoretical approaches, it becomes apparent that health care reform is a phenomenon that has been necessary in the USA and will, consequently, improve the economic human rights of American citizens.

*Key words: health care, reform, economic human rights, neo-liberalism*

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# List of Abbreviations

EU	European Union
ER	Emergency Room
IC	International Community
ICESCR	International Covenant on Economic, Social and Cultural Rights
NHI	National Health Insurance
UN	United Nations
USA	United States of America
WWII	World War II

# 1 Introduction

A few days before writing this introduction, President Barack Obama presented a bill on health care reform that has been passed by both the House and the Senate. The last step in this historic occasion is for the President and the US Congress to settle on the final draft of the bill and then Obama will sign the bill into US law making health care insurance affordable to millions, and securing economic human rights to an entire country.<sup>1</sup>

One of the most interesting parts about the health care reform is understanding why the past attempts to reform have failed and what reasons are behind the way the US health care system functions today. Also, by using a theoretical approach, I was able to analyze the right to economic security by means of health care from a neo-liberal perspective and compare it to a Human Rights perspective. By doing this I could find both support and opposition to Obama's health reform proposal and then able to draw conclusions to whether or not Obama's reform would benefit economic human rights in the USA.

I argue that by using a hybrid system that Obama has presented and called "uniquely American"<sup>2</sup>, he will be able to please both neo-liberals and human rights advocates to a certain extent. Through opening up a larger market for both private and public insurers it will increase stability, allowing citizens to choose which type of insurance they want thereby promoting individual freedom at the same time as securing the human right to health care. This then makes it evident that health care can be universal in the US which will in turn improve economic human rights and gain stronger credibility from the International Community.

## 1.1 Research Question

The aim of my thesis is to determine whether or not economic human rights in terms of health care can be improved in the USA by the health care reform that President Obama has suggested. I have used sub-questions to my research question to guide my thesis into finding an answer, these questions include; what are Obama's intentions with health care reform, how is he planning

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<sup>1</sup> The White House, Office of the Press Secretary, *Remarks by the President on Senate Passage of Health Insurance Reform*, December 24<sup>th</sup> 2009 p. 1

<sup>2</sup> The White House, Office of the Press Secretary, *Remarks by the President in ABC "Prescription for America" Town Hall on Health Care*, June 24<sup>th</sup> 2009 p. 3

to carry out the reform, how will the reform be financed, what challenges are being faced and will the American people benefit from the outcomes of reform?

## 1.2 Delimitations

This thesis is meant to give light to the health care reform that President Obama has proposed and I will analyze this by the use of theoretical approach as how the reform can improve economic human rights in the USA. By using a neo-liberal theory and a Human Rights perspective I have been able to reach the conclusions presented in this thesis, hence, I do not wish to make any generalizations to the situation by only making use of these two theories. Other theories have their valid points for discussion; however I have limited myself to using these two for the relevance of my topic. Also, I do not intend to give great detail to any events that have occurred in American history, the ones presented are found relevant to past attempts to healthcare reform.

## 1.3 Theory

Within the idea of health care reform, there are many different theories and explanations to why state leaders act the way they do, why the economy looks the way it does and why the welfare state needs to be focused on. Out of the ones that I have looked at, I have found neo-liberalism and a Human Rights perspective to be most relevant to my study. When discussing a neo-liberal perspective I have taken into consideration authors such as Francis Fukuyama to discuss the way in which democracy and a capitalist state is found to be the ultimate state structure. For the Human Rights perspective I have used the scholar Margot Salomon to demonstrate the traits necessary for a state to obtain if human rights are to be respected, while economic growth can continue to develop. I have distinguished what type of human right health care is and by what means one should take care of primary rights such as health care in order to later be able to focus on economic prosperity. The use of theories is presented more detailed in the thesis where I will discuss both theories separately and then compare the two to create a discussion where I will come to my own conclusions about the theories in this topic.

## 1.4 Methodology and Material

To be able to address the research question and its sub-questions I decided to use President Obama's public speeches within the health care forum as my primary source and it is the source I have found most useful. By using Obama's public speeches I have been able to analyze his plans and the ideas he presents to his audience and observe any changes that might have occurred in the many speeches I have used. I have read the speeches presented on the White House Official briefing room webpage and read the ones between the dates 2009-05-11 and 2009-11-08 and have also read the official speech on 2009-12-24 to confirm that the health care reform bill has been passed, although not yet written into law.

By using two different theoretical approaches I have been able to view the problematic situation of reform from a neo-liberal perspective and a Human Rights perspective. When using two different theories I have drawn my own conclusions from their valid points in order to create a convincing argument between the two and later established a final discussion where I reached the conclusion stating that the US will witness improved economic human rights by means of health care because of the reform Obama is proposing.

Besides Obama's official public speeches, I have also used the aid of books about welfare, responsibility and theories. In addition I have also used the ICESCR document, published articles and human rights forums. The combination of these materials have allowed me to understand the different concepts presented in the literature to then analyze the content of Obama's speeches and draw conclusions from the speeches by the aid of the assisting material.

## 2 History and Background

The idea of universal healthcare is not a new concept nor is it a debate that has just recently been on the presidential platform. In fact, the idea of healthcare reform has been going on for almost a century. From a human rights standpoint, one would ask: how can a state, claimed to be the hegemony of our international system, one of the richest nations in the world, filled with promotions such as democracy and more recently human rights; how can they not provide adequate healthcare to their citizens? The reasons as to why healthcare reform has not gone through in the past are due to a number of complex and also impractical reasons. For example, during the recent administration of George W. Bush, there was very little effort in trying to achieve economic human rights. During this time it was said that freedoms rather than rights were of greater importance as well as the pursuit to gain opportunities rather than entitlements.<sup>3</sup> I would like to introduce some of the main events in healthcare reforms history, to give light on and give better understanding to the reasons that challenge healthcare reform today.

Historically, healthcare reform struggle involves several presidents and also what kind of historical time those presidents were facing at that moment in time. I do not intend to analyze the past attempts of former Presidents, nor do I attempt to give great detail to any of the events that I wish to enlighten. The purpose of discussing historical factors is to give this subject a background on which my essay can position itself and build on and it is also relevant to understanding how the American health care system functions.

### 2.1 Previous Attempts to Health Care Reform

To start with, former president Theodore Roosevelt already in 1912 wanted to include universal coverage for Americans. This was mentioned in his campaign for presidency which also included things such as prohibition of child labor, women's suffrage, minimum wage for women and different types of protection at the work place.<sup>4</sup> When World War 1 broke out, reform was held back, but later brought up during the great depression when most people realized that without

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<sup>3</sup> Neubeck, Kenneth J in Kilty, Keith M. Segal, Elizabeth, *A The Promise of Welfare Reform: Political Rhetoric and the Reality of Poverty in the Twenty-First Century* p.280

<sup>4</sup> Birn et al. "Struggles for National Health Reform in the United States", Images of Health, *American Journal of Public Health*, (2003) p. 86



health insurance, pension or any type of social security, poverty and sickness increased dramatically.<sup>5</sup> The age of the Great Depression (or at least between 1934 – 1939) was when President Franklin D. Roosevelt needed to answer the cry of help as more and more people called for relief from the government and were in need of protection. The National Health Insurance or NHI was the main result, after he had established the Committee on Economic Security.<sup>6</sup> However, during this time, although NHI was a part of the preliminary report by the Committee, the main focus at that time was unemployment and so was treated as the top priority.<sup>7</sup> F. D Roosevelt proposed a “New Deal” which was a bill that introduced social insurance, wage replacement in case of illness and unemployment protection.<sup>8</sup> And so, in 1935, the result of the Social Security Act was born, a milestone in American welfare history. Roosevelt hoped that NHI could later be incorporated to the Social Security act, however a few years later and Congress was no longer supportive of the idea and of government expansion.<sup>9</sup> Post World War II, the American economy started to thrive in the age of capitalism, work was available and employers were starting to use appealing benefits including health insurance, to attract workers.<sup>10</sup> This would be a trend that continued to grow and become an American norm; “Because health insurance was so closely tied to full-time employment, retirees, the self-employed, the unemployed and the underemployed were largely left out.”<sup>11</sup> This problem proved evident as time continued and is one of the central reasons to as to why health care reform is needed in today’s Obama administration.

Later in the 1960’s when Lyndon Johnson was president, he made the proposal of Medicare and Medicaid his top priority, signed the proposal and incorporated them into the Social Security Act.<sup>12</sup> This too is a historical milestone in American welfare. Medicare is insurance for seniors over the age of 65, and pays for limited hospital care and helps pay for physician care. Medicaid, on the other hand, is a program that provides the poor with health care.<sup>13</sup> Both

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<sup>5</sup> “National Health Insurance – A Brief History of Reform Efforts in the U.S” Focus on Health Reform, publication #7871(2009) [www.kff.org](http://www.kff.org). p. 2

<sup>6</sup> *Ibid* p. 2

<sup>7</sup> *Ibid* p. 2

<sup>8</sup> Birn et al. “Struggles for National Health Reform in the United States”, Images of Health, *American Journal of Public Health*, (2003) p. 87

<sup>9</sup> “National Health Insurance – A Brief History of Reform Efforts in the U.S” Focus on Health Reform, publication #7871(2009) [www.kff.org](http://www.kff.org). p. 2

<sup>10</sup> *Ibid* p. 3

<sup>11</sup> *Supra* 5

<sup>12</sup> “National Health Insurance – A Brief History of Reform Efforts in the U.S” Focus on Health Reform, publication #7871(2009) [www.kff.org](http://www.kff.org). p. 4

<sup>13</sup> *Ibid* p. 4

programs are paid for by the government and are essential to very many Americans however they are almost the only health programs that are controlled by the government, even today. Although these programs were signs of progress in health care welfare, they were, and still are very expensive. Health care costs were not controlled and “because of shift in national politics, the inflation accompanying the oil shocks of the 1970s, and economic anxieties caused by dramatic increases in health care costs (...)”<sup>14</sup> the plans of health care reform was more or less off the table and was not being supported strongly. After Ronald Reagan decided to reduce federal intervention and reduce funding for social programs in the 1980s, grassroots movements regarding health care started to make their way up. Seemingly, the American public started to worry more and more about health coverage and how they were going to be able to pay for their medical bills.<sup>15</sup> As a result, Bill Clinton’s presidential campaign included a commitment to health care reform.<sup>16</sup> Clinton’s attempt to reform had been very optimistic, as his plan called “the Health Security Act” was supposed to achieve that of universal coverage, and regulated costs by the government. However, the attempt did not follow through, as many health care insurers did what they could to prevent the reform.<sup>17</sup> Also, Clinton’s proposal was very long and complex on paper and made it more difficult to gain popularity, and although the reform did not survive, the Children’s Health Insurance Program was created for children of low income families.<sup>18</sup>

## 2.2 What History has Taught Us

What one can conclude from this quick history recap is that healthcare reform has been asked for by the public and has been a hot topic for several presidents for a number of years now. It is interesting to note that during Carter’s presidency, he tried to endorse the ICESCR into US law as he saw the need to put what was in theory into practice, he considered the Universal Declaration of Human Rights and decided it was of great importance to grant citizens their economic human rights.<sup>19</sup> However, even though Carter endorsed the treaty, in order for it to

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<sup>14</sup> Birn et al. “Struggles for National Health Reform in the United States”, Images of Health, *American Journal of Public Health*, (2003) p. 89

<sup>15</sup> “National Health Insurance – A Brief History of Reform Efforts in the U.S” Focus on Health Reform, publication #7871(2009) [www.kff.org](http://www.kff.org). p. 7

<sup>16</sup> Birn et al. “Struggles for National Health Reform in the United States”, Images of Health, *American Journal of Public Health*, (2003) p. 90

<sup>17</sup> “National Health Insurance – A Brief History of Reform Efforts in the U.S” Focus on Health Reform, publication #7871(2009) [www.kff.org](http://www.kff.org). p. 8

<sup>18</sup> *Ibid* p.8

<sup>19</sup> Neubeck, Kenneth J in Kilty, Keith M. Segal, Elizabeth, *A The Promise of Welfare Reform: Political Rhetoric and the Reality of Poverty in the Twenty-First Century* p.279

become law, the Senate must also ratify the treaty and to this day (December 2009) the US does not have any legal obligation to the ICESCR.<sup>20</sup> Due to the several reasons such as: war, recession, Congress, socialism or insurance companies, has pushed reform back continuously and it is because of the past that President Obama keeps saying that the time is now. Even though there is a recession, even though the budget is low and margins are small, there is no more time to dwell on the decision.

## 2.3 The Role of Health Insurance

It is generally acknowledged that the USAs health care system is very unique; it is one of a kind in comparison to the rest of the industrialized nations. This is also something that President Obama discusses in his speeches as he states that; “We need to come up with something that is uniquely American.”<sup>21</sup> Referring back to the history of American health system, one can understand how the insurance companies have a strong role in the act of reform. Because of the nature of their business, many times, insurance companies have been part of the opposition group towards reform, insisting that reform would convey government- negotiated prices.<sup>22</sup> However, this time it seems that Obama has managed to gain support from some of the larger insurers companies.

The large critique that has been addressed towards the insurance companies have been quite heavy as it includes, statistic discrimination, denying coverage due to pre-existing conditions and also finding “loop holes” for denied coverage when it is needed the most. Because of these problems, the system has been dominated by private insurers who are working towards profit,<sup>23</sup> and not the well-being of the public. Statistic discrimination is carried out when the insurers start to pool groups, when choosing which individuals they want to insure by looking at statistics. If an individual belongs to a certain age group, a racial group or otherwise, that generally have higher blood pressure than another individual, then it is more likely that the insurer will pick the individual less likely to cause higher expenses. This is commonly known as “cherry-picking”, something that has left many Americans uninsured.

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<sup>20</sup> *Ibid* p.279

<sup>21</sup> The White House, Office of the Press Secretary, *Remarks by the President in ABC “Prescription for America” Town Hall on Health Care*, June 24<sup>th</sup> 2009 p. 3

<sup>22</sup> Bybee, Roger, “Can we have universal health care?” in *Dissent* (2009), *Project Muse*, p. 68

### 3 President Obama's Plan

The Obama administration is committed to creating a healthcare system in the United States where more options are available to the public. At the moment, those who do not have insurance or cannot afford insurance are getting their health care from the Emergency room, or the ER. The ER in turn, is being paid for by tax money and the government. Everyone is paying for those who do not have health insurance and the result is, the cost of medical care skyrocketing without any control. As Obama has mentioned in one of his speeches that; "If we do nothing, within a decade we will be spending one out of every \$5 we earn on health care."<sup>24</sup> Because the public has no access to health insurance other than what is offered by private insurers, Obama wants the ability to let the public choose what insurance plan they want to have with less restrictions. So if they are pleased with the program they already have and follow, they should keep it. However, if they cannot afford a plan or if they are not satisfied with what they have, the option to choose a public plan is available. That is why he has proposed a plan called the "Health Insurance Exchange", which will again allow keeping what you have, applying for a type of single-payer system as Medicare or sign up for the public option.<sup>25</sup> These options are planned to hold down the costs that are set by insurance companies at present, and how they are going hold costs down will be further explained in this essay as the finance of reform with be discussed.

#### 3.1 What it is Obama wants to do

The essence of Obama's plan is to fix what is broken and instead work on what America has and what works today. Instead of starting from scratch to build up an entirely new system, Obama realizes that the system today is also a comfort zone for many and therefore does not want to disrupt it all together. Another reason for keeping the system the US has today is to gain as much support from the public as possible, insuring them that reform will not result in total change and be a stranger to the American household.

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<sup>23</sup> Bybee, Roger, "Can we have universal health care?" in Dissent (2009), *Project Muse*, p. 63

<sup>24</sup> The White House, Office of the Press Secretary, *Remarks by the President in Town Hall Meeting on Health Care*, June 11<sup>th</sup> 2009 p. 2

<sup>25</sup> Bybee, Roger, "Can we have universal health care?" in Dissent (2009), *Project Muse*, p. 64

Obama says that he also wants to use prevention and regular check-ups as methods to hinder Americans to further end up at the ER, resulting in high costs and expensive medication.<sup>26</sup> Procedures such as colonoscopies and mammograms that are currently not being covered in most insurance plans are examples of simple procedures to prevent finding diseases at a late stage, resulting in high costs and lower survival chance.<sup>27</sup> Through reform, many insurers may be obligated to provide these types of prevention check-ups to help secure health and regulate costs. All citizens should have coverage regardless of pre-existing conditions, something that has become a major problem in the healthcare system lately and therefore of central focus to Obama's reform campaign. Through reform, one of Obama's demands on insurers will be to make sure that they do not deny coverage to the public when they need it the most.<sup>28</sup>

## 3.2 How Obama wants to Finance Reform

Reform, although Obama says it is needed is not a cheap phenomenon. Obama however is committed to create reform in a way that will not add to the governmental deficit and has therefore thought out a plan to finance reform. The primary funding will come from the money that already exists in the system which is the money that all tax-payers are already putting in; the difference now will be that the money will be spent differently. In Obama's speeches he has said that about two-thirds of the cost will come from being able to reallocate the money that is being spent anyway, but in a more effective way such as promoting prevention and wellness programs.<sup>29</sup> In reallocating the money is it expected that the health care will improve at the same time that it will not add to any deficit. The rest of the money that will pay for reform will come from capping the itemize deductions that exist for high income takers in the US, this means that those who make over \$250,000 a year will get the same tax deductions as middle class citizens.<sup>30</sup> For example, currently, those making more than \$250,000 a year get to deduct more on their house because they own a bigger house than someone who makes less income and this is

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<sup>26</sup> The White House, Office of the Press Secretary, *Remarks by the President in Town Hall Meeting on Health Care*, June 11<sup>th</sup> 2009 p. 2

<sup>27</sup> The White House, Office of the Press Secretary, *Remarks by the President on Small Businesses' and Health Insurance Reform*, October 29<sup>th</sup> 2009 p. 2

<sup>28</sup> *Ibid* p. 2

<sup>29</sup> The White House, Office of the Press Secretary, *Remarks by the President in ABC "Prescription for America" Town Hall on Health Care*, June 24<sup>th</sup> 2009 p. 7

<sup>30</sup> *Ibid* p.7

something Obama wishes to change and in return use that money to help pay one third of the health reform.

Obama has also stated in a public speech that all the money that will pay for the reform is real hard cash, this is money that exists and nothing that will add up to debt. He has said that it will take about \$90 billion a year, which is less than what has been spent on the Iraq and Afghanistan wars and also less than the tax cuts that the top income takers in the US are receiving.<sup>31</sup> By being able to slow down the rate at which health care costs are growing by less than 1% a year, then it will reduce the government's deficit. This is therefore a win-win situation cost wise as taxes are not being raised, no debts are being produced and in the long-run it will help reduce the existing deficit and all along while securing health care rights.<sup>32</sup>

### 3.3 The Importance of a Public Option

The American health care system is unique in the sense that it is dominated by health insurers and the large companies that grant their employees coverage by using these insurers.<sup>33</sup> This means that the government has had very little interference regarding insurance policies and how they have been running the market, thereby holding a very neo-liberalist approach. Obama however, stresses in his public speeches the importance of a public option. There are far too many people who lack health insurance in the United States, the main reason being that insurance premiums keep increasing so people cannot afford them, and this greatly affects smaller businesses and self-employees, something that will be further discussed at a later note. Another reason has to do with the insurance companies' policies, as they eliminate customers due to pre-existing conditions or statistic discrimination. Ultimately, this type of behavior ends up being costly for not only the state, but for all tax payers, as people lacking health insurance wait until they get very sick and then end up at the ER where they are guaranteed health care, but health care that everyone is paying for. The idea behind the public option will be to open the market and give private insurers an extra competitor so that every citizen can receive coverage regardless of pre-existing conditions. This in turn, is expected to keep private insurers more honest and put more pressure on them to deliver higher quality service and more coverage. The Insurance

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<sup>31</sup> The White House, Office of the Press Secretary, *Remarks by the President on Health Insurance Reform*, September 10<sup>th</sup> 2009 p. 2

<sup>32</sup> *Ibid* p. 2

<sup>33</sup> Bybee, Roger, "Can we have universal health care?" in Dissent (2009), *Project Muse*, p. 63

Exchange would also keep down administration costs compared to what private insurers obtain which account for 31% of public spending, while other governmental plans such as Medicare only take a 2% administration charge.<sup>34</sup>

Obama states in his speeches that the reform will assure a public option to create security and stability for the American people,<sup>35</sup> demonstrating the support to a Human Rights perspective and argument to why health care reform should take place. Obama does not use expressions such as Human Rights, but essentially states that the American public is in need for security of economic rights such as health care, thereby satisfying a human rights perspective.

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<sup>34</sup> Bybee, Roger, "Can we have universal health care?" in Dissent (2009), *Project Muse*, p. 64

<sup>35</sup> The White House, Office of the Press Secretary, *Remarks by the President on Upcoming Vote in the House of Representatives on Health Care Reform*, November 7<sup>th</sup> 2009 p.

## 4 Theoretical Approach

A theoretical approach to this essay is necessary in order to understand the arguments presented by both pro reformists and those opposing reform. By using a neo-liberal theory and by comparing it to a human rights perspective, one can clearly identify the main arguments that Obama is facing.

### 4.1 Neo-Liberalism

One of the important theories associated with American politics is neo-liberalism. This is because the US has a very neo-liberal approach on behalf of their foreign but also domestic policies<sup>36</sup>. If one looks at the US market and the role of American economics it becomes evident that neo-liberalism is the dominating structure at hand. The importance of neo-liberalism is apparent in this thesis, as it is mostly the neo-liberals, again the dominant American economic theory, that are criticizing Obama's plan to healthcare reform. An introduction to the theory of neo-liberalism is therefore relevant in understanding how the criticism towards reform is argued in comparison to a Human Rights perspective.

Neo-liberalists "(...) value individual freedom above all else, and they believe that the state ought to be constrained from acting in ways that undermine that freedom."<sup>37</sup> This quote is more or less the fundamental idea of neo-liberalism, saying that every individual is responsible for his actions because he has the freedom to act. Another part of this reasoning is also that inequality is inevitable. In a neo-liberal world, every person has self-restraint and everyone is able to govern themselves through organizations, therefore allowing minimal state intervention.<sup>38</sup> Also, everyone must take risks, this is essential as market freedom is fundamental to neo-liberalism and with the market comes risk, but nevertheless, people must take sensible risks to stimulate economic growth.<sup>39</sup> Any inequities that result from this freedom is a matter of choice, hence, inequality cannot be avoided as it is the individuals themselves that choose inequality. If one ends up poor

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<sup>36</sup> Baylis, John. Smith, Steve. *The Globalization of World Politics, An Introduction to International Relations: third edition*. p. 212

<sup>37</sup> Griffiths, Martin et al. *Fifty Key Thinkers in International Relations: Second Edition* p. 65

<sup>38</sup> Ericson, Richard et al. "The Moral Hazards of Neo-Liberalism: Lessons from the Private Insurance Industry" *Economy and Society* 29: 4, 532 - 558 p. 533

<sup>39</sup> *Ibid* p.533



or unsatisfied it is because of “(...) poorly thought-out risk decisions. Seen as choice, inequality is seen as inevitable.”<sup>40</sup> Neo-liberals criticize the welfare state as they claim it constructs a bond and dependency for people to rely on. They also argue that a welfare system can be maintained with limited state intervention as long as there exists a free market and the ability to make use of institutions as welfare providers.<sup>41</sup> Well known liberalist, Francis Fukuyama argues that the only system that has ever proven to be prosperous is the liberal, economic democracy that is available today as in the United States.<sup>42</sup> Fukuyama argues that the combination of a liberal democracy and capitalistic economy works because it fulfills the basic needs of human nature as the system allows for economic growth at the same time it realizes political freedom, the need for recognition and a sense of equality.<sup>43</sup>

It is worth noting that there are different types of neo-liberals. There are the most common, free market liberals that believe very strongly in non-governmental intervention, promotion of institutions and, quite obviously, the importance of a free market. On the other hand there also exist social democratic neo-liberals; these movements support institutions and economic freedom as long as balance and equality also exists. They also support “(...) reformed institutions that promote social justice, ecological balance and human rights.”<sup>44</sup> However, despite the existence of alternative neo-liberals, the free market neo-liberals still dominate the political platform and the United States has been known to promote trade and business rather than human rights and social justice.<sup>45</sup>

## 4.2 Human Rights Perspective

Health care reform in the United States is definitely a desirable outcome from a human rights perspective. One of the most supported and the most prominent document when it comes to economic rights and security (with nearly universal ratification) is the International Covenant of Economic, Social and Cultural Rights. This covenant was developed after most of the European

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<sup>40</sup> *Ibid* p. 554

<sup>41</sup> *Ibid* p. 538

<sup>42</sup> Griffiths, Martin et al. *Fifty Key Thinkers in International Relations: Second Edition* p. 83

<sup>43</sup> *Ibid* p. 83

<sup>44</sup> Baylis, John. Smith, Steve. *The Globalization of World Politics, An Introduction to International Relations: third edition.* p. 220

<sup>45</sup> *Ibid* p.221

social reforms were taken place, and directly address second generation rights that include social security and the right to health care.<sup>46</sup> The ICESCR clearly states in Article 12:1 “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”<sup>47</sup> According to Salomon, economic growth is essential for human rights to develop, and institutions need to let able a national effort of sustaining human rights at the same time allowing economic growth.<sup>48</sup> She also argues that the states who legally abide to the treaty, bound by international law, are the ones who prove that they take economic human rights seriously.<sup>49</sup> They are the ones who maintain respect and agree to the responsibility of human economic rights in accordance to the ICESCR. It is therefore of great significance for the International Community, that the US should take action to preserve their citizens’ rights to demonstrate and support their role in the international community regarding human rights. If a health reform goes through, then the US would be one step closer to fulfilling the ICESCR art. 12, and also the US will show the world that respect of economic human rights exists and is continuing to develop.

It is interesting to note the “highest attainable standard” in Article 12.1 and to what the concept of highest attainability entails. Critics have said that although the American health care system is not optimal, it is still better than most other countries in the world.<sup>50</sup> Because although it functions a bit different than in Western Europe, universal health care does in fact exist in the US, albeit one has to be severely ill and end up at the ER in order to receive healthcare but it is still available and the ER must treat those that come there. Critics have also said that if one were to have a universal system such as Britain or Canada, the wait for health care would be far too long as many countries have very high waiting lists and can therefore argue that one may end up at the emergency room while waiting for care<sup>51</sup>.

Furthermore, human rights can be a broad concept and can be broken down in order to view the rights that are the most fundamental. Basic rights are claimed to be those rights that secure our survival they are primary rights and include food, shelter, and health care. Non basic rights still maintain the same value of basic rights but may be sacrificed in order to secure our basic rights, there therefore exists a dependency. Henry Shue believes that the difference between the two does not have to do with greater value but that only when our basic rights are secure and

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<sup>46</sup> Smith, Rhona K.M. *International Human Rights: third edition*. p.42

<sup>47</sup> Eriksson, Maja K et al. *Documents in Public International Law: Second Edition*

<sup>48</sup> Salomon, Margot E. *Global Responsibility for Human Rights: World Poverty and the Development of International Law*. p. 131

<sup>49</sup> *Ibid* .168

<sup>50</sup> Christensen, Clayton M. et al. *The Innovator's Prescription - A Disruptive Solution for Health Care*. p. (Introduction) xvi

stable can we enjoy our non-basic rights that are rooted in basic rights.<sup>52</sup> This again strengthens Obama's attempt for reform, as it is only when the basic rights for American citizens' are granted that they can later on enjoy the rest of their rights. In the case of health care, it is especially accurate as one can only work and achieve a higher living status if one is healthy enough to be able to work and also enjoy a higher living status.

### 4.3 Neo-Liberalism versus Human Rights Perspective

There are two assumptions made by the scholar David Weissbrodt that seem to give evidence that the United States do not respect economic human rights and have no obligations towards those rights.<sup>53</sup> Firstly, it is primarily civil and political rights that are being protected by the government, it has been argued that in allowing freedom to individuals in the economic sector will grant them the opportunity to advance and create their own success and therefore only civil and political rights need to be protected in helping individuals achieve this.<sup>54</sup> However, as said by Nobel-prize winner Amartya Sen; "Economic unfreedom can breed social unfreedom, just as social or political unfreedom can also foster economic unfreedom."<sup>55</sup> It is therefore argued from a human rights perspective that political, civil and economic rights are all linked and interdependent of each other; one cannot escape poverty if economic rights are not granted.<sup>56</sup> The second assumption is that the US has had a neo-liberal approach towards economic human rights and it is greatly because of neo-liberalism that these rights have not been able to develop in the US. Encouragement of economic freedom and trade by creating a great international market is said to create new jobs, provide a higher standard of living and essentially, the market will be the exclusive reliance that people will need, as the government should not interfere.<sup>57</sup> But by reducing government run programs to help those in need and instead allow greater freedom to battle economic security, leaves many behind and little protection is accessible to those struggling, as we can see during the economic recession, people are losing jobs due to the economy and there is no safety net to catch them if they get sick. According to Neubeck, human

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<sup>51</sup> *Ibid* p. (Introduction) xvi

<sup>52</sup> Salomon, Margot E. *Global Responsibility for Human Rights: World Poverty and the Development of International Law*. p. 172

<sup>53</sup> *Ibid* p. 281

<sup>54</sup> *Ibid* p. 281

<sup>55</sup> Sen, 2000, p.8 in Neubeck, Kenneth J in Kilty, Keith M. Segal, Elizabeth, *A The Promise of Welfare Reform: Political Rhetoric and the Reality of Poverty in the Twenty-First Century* p.281

<sup>56</sup> *Ibid* p.281

<sup>57</sup> *Ibid* p.281

rights advocates are increasingly saying that the US violates economic human rights and that the world needs to be more attentive to the situation as the US gladly points out other states' flaws in regards to human rights.<sup>58</sup>

Because the neo-liberal theory supports freedom and expects individuals to make rational choices, it bluntly says that if you are poor and cannot afford health care, it is because you have made choices in your life to make you poor and you are therefore responsible for your standard of living yet again saying that inequality is inevitable.

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<sup>58</sup> *Ibid* p. 284

## 5 Reform

In his public speeches on health reform, President Obama is clear about his intentions and his concern for the American people. He states that reform is not about the numbers, but health reform is for the people.<sup>59</sup> He uses the American public as his central focus in his speeches and dedicates his work to “ordinary Americans”<sup>60</sup> in order to achieve their support in allowing health reform to pass. When explaining how he wants the reform to go through and how the idea of Insurance Exchange should play out, he discusses the act of transition for Americans.<sup>61</sup> For many critics and even the public have asked why a single-payer system, (such as the ones present in Canada, Britain and most of Western Europe) has not been considered in the United States.<sup>62</sup> He acknowledges the difficulty in accepting change to way in which the American people are accustomed too and this is a great reason to why Obama has presented a hybrid system of health care. Also, because it is expected that about 1/5<sup>th</sup> of the economy will be reliant of health care, he has to be cautious as not to disrupt the system too severely.

### 5.1 The Hybrid System

The hybrid system is a health care system that is supposed to be “uniquely American”<sup>63</sup> one that is suited for the type of system that is in place now. Because American health insurance has been primarily employer-based for so long, many are happy with what they have and are not interested in being told by the government what type of health care they should receive. It is worth noting that this critique has been on the central debates and scares tactics against reform amongst the public. Obama has then suggested a solution where you can keep your insurance plan if you are happy with it, but if you are not satisfied or if you do not qualify for insurance coverage, then a public option is presented to you. Also, what Obama wants to achieve with the reform is to

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<sup>59</sup> The White House, Office of the Press Secretary, *Remarks by the President on Reforming the Health Care System to Reduce Costs*, May 11<sup>th</sup> 2009 p. 2

<sup>60</sup> The White House, Office of the Press Secretary, *Remarks by the President in an Online Town Hall on Health Care*, July 1<sup>st</sup> 2009 p. 4

<sup>61</sup> The White House, Office of the Press Secretary, *Remarks by the President before meeting with Senate Democrats to Discuss Health Care*, June 2<sup>nd</sup> 2009 p. 1

<sup>62</sup> The White House, Office of the Press Secretary, *Remarks by the President in ABC “Prescription for America” Town Hall on Health Care*, June 24<sup>th</sup> 2009 p. 11

<sup>63</sup> The White House, Office of the Press Secretary, *Remarks by the President in ABC “Prescription for America” Town Hall on Health Care*, June 24<sup>th</sup> 2009 p. 3

eliminate the right for insurance companies to cherry-pick their customers due to pre-existing conditions and limit the risk of insurance companies to deny coverage when one is in need. It essentially will patch up the private insurance system to eradicate the loop-holes that are so elegantly being used by the companies in order to gain profit. Focus on check-ups and prevention has also been a central feature of reform, as wellness programs will be promoted and check-ups included in insurance coverage.

## 5.2 Neo-Liberal Argument in opposition to a Public Option

A majority of the arguments that Obama addresses in his debates and public speeches, are arguments that support the neo-liberal theory. The US has historically preferred to focus on their market economy rather than their welfare state, to use the market as a means to political solution and to avoid an active state role.<sup>64</sup> So it is no surprise that many critics find themselves threatened by government interference in the health care system. Some private health insurers have argued that introducing a public option and allowing the government to enter the health care market is unfair and have compared it to playing against competitors who are also the refereeing the game.<sup>65</sup> They have also argued that starting a new governmental program when the government deficit is so high will have negative consequences on the American economy and the American families in the future as it is restricting the open market.<sup>66</sup>

The Wall Street Heritage Index measures economic freedom in the world, and although the USA has always been high up on the list standing as number six at present, the index comments that the US economic freedom status will decrease as the new administration allows for further governmental intervention causing severe damage to the free market. Perhaps it is no wonder that the Heritage Foundation's Economic Freedom list is described as "(...) public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense."<sup>67</sup> Hence, written by neo-liberalists.

Obama's response to the neo-liberal arguments is quite simple as he merely states that, if the government is not needed or not able to function as well as private insurers, then there will

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<sup>64</sup> Reisch, Michael in Kilty, Keith M. Segal, Elizabeth, *A The Promise of Welfare Reform: Political Rhetoric and the Reality of Poverty in the Twenty-First Century* p.71

<sup>65</sup> The White House, Office of the Press Secretary, *Remarks by the President in ABC "Prescription for America" Town Hall on Health Care*, June 24<sup>th</sup> 2009 p. 9

<sup>66</sup> The White House, Office of the Press Secretary, *Remarks by the President in ABC "Prescription for America" Town Hall on Health Care*, June 24<sup>th</sup> 2009 p. 8

<sup>67</sup> <http://www.heritage.org/Index/Country/UnitedStates>

not be a need for a public option and therefore the public will not choose the public option.<sup>68</sup> But as the situation looks now, the number of uninsured Americans is too great to just stand-by and watch health care costs spiral uncontrollably without the government's say in the situation. The Insurance Exchange can essentially be seen as an expanded national marketplace, which allows more freedom for an individual to choose which type of insurance plan matches their needs the greatest. On that note, Obama's plan should be able to satisfy the neo-liberal arguments to a certain degree as he is not planning a complete do-over of the system, but rather try and create increase opportunity within the system, at the same time granting American citizens their fundamental rights insuring security and stability, which also satisfies a human rights perspective. As for an unfair game within the market, Obama states that the government will have the same rules and be on the same level as the private insurers.<sup>69</sup> Therefore, he argues that a fair game is created, the government will not have any type of upper-hand situation and that chances are private insurers will continue to flourish as there still are many people who are satisfied with the insurance plan they have and want to keep it that way.<sup>70</sup>

### 5.3 Smaller Businesses and the Self-Employed

Some of the most affected groups that fall through the loopholes of insurance companies are smaller businesses and those who are self-employed. Seeing as health care insurance is desirably paid for by employers, bigger companies have fewer problems maintaining insurance payments than smaller companies. The result of this becomes that many smaller companies cannot afford to grant their employees health insurance, or they have to choose to cut back pay checks, or worst case scenario lay off some employees in order to pay for the others.

By the introduction of Obama's proposal, it will allow smaller businesses and the self employed to have a public option thereby allowing them to flourish and grow, supporting them into the global market and creating more job opportunities because they could then afford an insurance plan for their employees. Through a public option, smaller businesses will be able to pool themselves thereby creating more leverage as a group towards the insurance companies, allowing them to receive lower insurance premiums. Since larger companies have more employees, they are more valuable to insurance companies as customers because they purchase

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<sup>68</sup> The White House, Office of the Press Secretary, *Remarks by the President in ABC "Prescription for America" Town Hall on Health Care*, June 24<sup>th</sup> 2009 p. 8

<sup>69</sup> *Ibid* p.9

<sup>70</sup> *Ibid* p.9

more insurance and are therefore given lower prices and better deals. This is why smaller companies need to have their needs met as they are surviving on very small margins. Considering that smaller businesses have created more than half of all the new jobs this past decade, Obama is realizing the problems that smaller businesses are facing and wants to support their role in the economy.<sup>71</sup> By allowing them to shop for a public affordable option, it will allow for granting all employees insurance.<sup>72</sup> Another positive aspect of reform for smaller businesses will be that a tax credit will be offered to them in order to help them pay for insurance to their employees<sup>73</sup>, this means that those companies who have lived off of margins and those who are self-employed and could not pay for expensive insurance due to small insurance pools, will be granted a whole new pool and extra tax credit to help support health care insurance.

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<sup>71</sup> The White House, Office of the Press Secretary, *Remarks by the President on Small Businesses' and Health Insurance Reform*, October 29<sup>th</sup> 2009 p. 1

<sup>72</sup> The White House, Office of the Press Secretary, *Remarks by the President in an Online Town Hall on Health Care*, July 1<sup>st</sup> 2009 p. 6

<sup>73</sup> The White House, Office of the Press Secretary, *Remarks by the President on Small Businesses' and Health Insurance Reform*, October 29<sup>th</sup> 2009 p. 2



## 6 Conclusion and Discussion

### 6.1 Conclusion

Through analysis of Obama's public speeches and also by studying the nature and past of attempts to American health care reform, one can clearly observe that Obama feels very strongly about health care reform and is very determined to follow through with his intentions. By understanding the numbers and the difficulties that has been present for previous presidents, it becomes evident that the essence of timing has been crucial.

By using a neo-liberal theory to interpret that economic stature of the American health care system, one can determine that a free market and individual freedom is a desirable structure for the US in times when the economy is doing well. It is however, a different situation when there is an economic recession, when medical costs and insurance premiums continue to increase while salaries stay at a constant level. It is here that a Human Rights perspective is relevant to understanding what basic rights each individual needs to be granted before economic growth and state prosperity is allowed to flourish. The Human Rights perspective clearly acknowledges the need for freedom, economic growth and democracy, however still emphasizing a need for stability and security for economic human rights. Again, many human rights advocates strongly argue that economic rights are equally important as civil and political rights and that a state (especially a state such as the USA) should grant its citizens all of these rights.

### 6.2 Discussion

When Obama presented how he planned to finance the health care reform he discussed reallocating the money that is already being spent but in a more efficient way, such as using the money to promote wellness and prevention, thereby not adding to the deficit. Also, Obama wishes to eliminate fraud within the health care system and use the money lost in fraud to instead staff more nurses and decrease the amount of paper work that many physicians face to instead allow them to focus on their patients. Obama therefore wishes to create more effective ways to finance health care in general in order to control the costs that are spiraling without control. The

last part of financing reform would be through limitation of the tax reductions that the top 2 or 3 percent high income takers are receiving. This part of the reform is, although negative for neo-liberals as they do not support governmental tax increase, strongly supported from a Human Rights perspective. The reason being that by limiting these tax reductions, the root of a human rights problem is being addressed for improvement that will later allow several more people to prosper and have economic security. A Human Rights perspective agrees to some non-basic human rights sacrifices if it will improve basic human rights.

It can therefore be understood that through the efforts of President Obama, the USA will profit from allowing a health care reform to pass. In the long run, a neo-liberal perspective will benefit from health care reform because once the American economy climbs out of its recession and continues to grow; trade and free markets will still be functional and work their way up towards success. While all along the citizens of the US will have a safety net and a sense of security that allows them the freedom to work and live without having to worry about bankruptcy due to illness and being denied coverage by their insurance due to pre-existing conditions. The USA essentially needs to live up to the expectations of the International Community and instead of pointing fingers at those less fortunate in the human rights area, they should actually use the resources that they have to improve the living standard of all citizens. The USA is still considered to hold the hegemonic status in the world system; they continue to promote freedom and democracy in their foreign policy and while all along those millions of Americans that lack health insurance are living a constant fear of losing their houses, their jobs and their health. Obama's health care reform will ultimately be a revolutionary and historic event in the US, something that will exemplify their high status and also something that will benefit the US as a whole in every sector, the public and the private. The ICESCR could soon be next on the list as the US with their new leader seems willing to develop human rights, economic security and welfare now more than ever.

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