



Written by [Charles Scaliger](#) on February 20, 2017

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Is Healthcare Really a Right?

With President Donald Trump's campaign promise to repeal and replace ObamaCare now a priority in the GOP-led Congress, it's worth asking why ObamaCare — as well as other government-sponsored healthcare initiatives, including Medicare and Medicaid — should be such a contentious topic. Socialized medicine has been a front-burner agenda item for the European Left for more than 100 years, and for the American Left since the end of the Second World War. Healthcare being so often a matter of life and death, it is contended, all of us enjoy a right to it — and withal a right that government ought to guarantee, via programs such as ObamaCare and “single-payer” schemes in other countries such as England and Canada.



The term “right” has seen a lot of abuse in our allegedly enlightened modern era. Whereas it was once applied to freedoms conferred on us by the “laws of nature and of nature's God,” the term is now used more or less indiscriminately as a label for anything to which we are entitled by man-made law. This distinction between “natural” and “civil” rights is reasonable enough; many purely civil rights, such as the right to a trial by jury or habeas corpus, may not arise directly from natural law, but have been proven worthy features of our legal code.

But not all civil, or man-made, rights were created equal. Some of them, such as habeas corpus, can exist only where the powers of the state are correspondingly limited. Others, such as the right to trial by jury, involve not only a limitation on state power (in this case, judicial power), but also an obligation on the part of private citizens to guarantee that they are upheld.

Put otherwise, a right to trial by jury — a jury of one's peers, private citizens rather than magistrates — implies a duty for all private citizens to serve on juries if summoned. While jury duty can be an inconvenience, most of us have concluded that it is a worthwhile sacrifice, inasmuch as juries act (in theory, if not always in practice) as powerful checks on the state's prosecutorial authority. In other words, the civil right to trial by jury involves a duty imposed on citizens that is more than offset by the benefit of limiting judiciary power.

But not all so-called civil rights involve such trade-offs. In the case of a “right” to healthcare (or any other service), it is implied that certain citizens will need to be compelled to provide it.

Doctors and other healthcare professionals therefore must be forced to provide healthcare on terms set by the state, instead of via voluntary, private contracts. But unlike jury duty, the “duty” to provide healthcare in no way exerts compensatory limits on the power of the state. Quite the reverse; the obligation to provide healthcare service is enjoined on doctors, insurers, and the like purely because



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people want it at a lower cost than the market can now provide.

To ensure that this entitlement is provided, the powers of the state must be very greatly enlarged via the creation of new bureaucracies and other enforcement mechanisms. ObamaCare involved a huge new grant of power to the IRS to penalize those who refused to purchase mandatory health insurance. In other words, the “right” to healthcare is not really a genuine civil right intended to amplify our freedom, but is merely the legal entitlement to cheap or free stuff, backed by a formidable array of novel government powers.

The supposed right to healthcare has given rise to other putative rights, such as the right to insurance and the right to benefits packages, all of which amount to legal requirements to provide stuff below market cost. As a result, such “rights” end up not only compelling healthcare providers, insurers, and the like to provide goods and services below market cost, but also forcing taxpayers to pay for them.

Nor is such logic unique to the healthcare debate. The very same arguments apply to other entitlements disguised as rights, many of which have much older pedigrees than the “right” to healthcare. A “right” to education implies forcing some to provide said education and — as with healthcare — at lower than market costs, requiring taxpayer subsidies. A “right” to food requires forcing someone to provide it. So also “rights” to clothing, housing, or a minimum wage. All of these are material things that someone must provide, and if some cannot afford them at market rates, then others must be forced to make up the difference via subsidies. And all such entitlements require vast new grants of government power to enforce them. As a result, we have a huge and generations-old regime of subsidized agriculture, housing, education, and many other things, all because the goods and services subsidized involuntarily by the taxpaying public were at some point redefined as “rights” by special interests. And all of these have required enormous increases in the cost and power of government.

None of the natural rights protected by the Bill of Rights involve such compulsory means. They merely require government not to infringe on them. The freedom to practice one’s religion, to speak or write any opinions one might have, or to keep and bear arms, require no third party obliged to provide such things. These and other genuine rights are also called “negative” rights because they impose only an obligation on the government not to infringe upon them.

In a word, healthcare is not a right; it is an arbitrarily decreed entitlement. As such, it lies outside the proper role of government as protector of God-given rights and freedoms. It is also clearly outside the constitutional prerogative of the federal government, since nowhere in the Constitution is Congress granted any legislative authority over healthcare.

Federally mandated and subsidized healthcare ought to be repealed and *not* replaced. No matter how ingeniously contrived the new GOP version of ObamaCare may turn out to be, it will be the same in principle as all other attempts to institute socialized medicine, and — such as Medicare and ObamaCare — will end up distorting the workings of the free market, driving up prices, enlarging government power, and wasting taxpayer money.



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