

6. “In Favor of Universal Health Care”

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Abstract:

The debate concerning universal health care is a relatively new phenomenon and a feature of modernity, but it is still unsure whether it is a right or a luxury. Additionally, the most powerful and affluent nations even question if universal health care is compatible with the democratic foundations on which they rest. First, from a Kantian and Hohfeldian perspective, this piece will outline the difference between a right and a privilege. Following that, there will be Hohfeldian and Kantian arguments suggesting health care is an entitlement of all and not a luxury. Afterwards, this piece will explore how universal health care is compatible with the principles of democracy through the classical liberal and proto-libertarian lens of J.S. Mill. Next, through the lens of political scientist Marie Gottschalk, there will be a description of the economic issues faced by businesses and individuals in states which do not embrace universal health care. Finally, by applying Kant's, Hohfeld's, Mill's, and Gottschalk's views concerning this topic, this piece will conclude with suggestions supporting the democratic and economic move toward comprehensive health care.

Keywords:

Political Philosophy; Rights; Privileges; Kant; Hohfeld; Mill; Gottschalk; Universal Health Care

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“In Favor of Universal Health Care”

In modern times the issue of universal health care is at the fore. Though hotly debated, it is unclear if all-inclusive health care is a right or an exclusivity. From the viewpoints of philosopher Immanuel Kant and jurist Wesley Newcomb Hohfeld, this piece will begin by drawing a distinction between rights and privileges. Next, there will be Hohfeldian and Kantian arguments supporting the idea that universal health care is a right. This piece will then focus on why comprehensive health care gels with the principles of democracy as understood by political theorist J.S. Mill. Moreover, by explicating political scientist Marie Gottschalk ideas on how universal health care avoids economic damage at the individual and corporate levels, will help the reader understand the safety of government-provided health care. Finally, by applying the notions of all four theorists, this piece will attempt to make the case that universal health care is not only fitting but also logical for democratic societies to embrace.

Distinguishing Rights from Privileges

As understood by Enlightenment philosopher Immanuel Kant (1970, 1997), a right is that which genuinely results from the proper synthesis of negative and positive freedom. By negative freedom, Kant (1970, 1997) is referring to that concept of those actions people cannot inherently perform, whereas positive freedom is that which entails the actions they can. Now, by synthesis, Kant (1997) means the *a priori* process by which the negative and positive facets of freedom, as concepts, premise a deduction which leads to a more precise definition of freedom. That definition, Kant (1997) calls autonomy, and it captures the key aspects of the determinate conditions and determinant powers of rational beings.

Moreover, the fundamental aspect of negative freedom is it can provide the humility needed for one to become virtuous, or dutiful, whereas positive freedom is the awareness of the mind's power to conceive itself as capable of limitless volitions (Kant, 1970, 1997). Accordingly, to Kant (1970, 1997), a right would have to satisfy both these aspects of freedom since that is how rational wills truly objectify. That is, a right can only be a right if it matches the nature of duty and unbridled freedom because only then does it reflect the nature of experience and reason (Kant, 1970). Fittingly, Kant (1970, 1997) believes people possess rights because they can delegate and submit to self-regarding laws which match the nature of universal maxims. Hence, when people actualize their volitions per the negative effects experience has on the limitlessness of their minds while asserting their unlimited rational capacities to interpret experience, they are objectifying an all-inclusive right (Kant, 1970, 1997).

Furthermore, Kant (1970) claims the stewards of rights, which are governments and states, have the authority to unblock any hindrance of another's liberty. To justify this view Kant (1970) draws from

the fact that two “not’s” make a right, and when a government stops another from stopping another’s autonomy, it does so legitimately. Also, governments have the power to set laws protecting rights since a population, like a government, has individual and collective elements (Kant, 1970). In other words, both a population and a government share in the fact that they are a collection of individual wills co-existing as a totality (Kant, 1970). Accordingly, if a government can protect each of its member’s rights by only enacting rules which consider negative and positive freedom, it can extend those laws to a population since both feature rational agents who have equal capacities for autonomy (Kant, 1970).

At the same time, 20th-century American jurist Wesley Newcomb Hohfeld (2016) draws attention to what constitutes a privilege. To Hohfeld (2016) a privilege is an absence of a right, or what Kant (1970, 1997) would call a positive freedom. That is, there is no negative or dutiful side to a privilege, and rather it is an exclusivity (Hohfeld, 2016; Kant, 1970, 1997). Also, Hohfeld (2016) believes a privilege is an opposite of a right and it correlates with what he calls a “no-right.” By “no-right,” Hohfeld (2016) means a right which is immune from duty since it correlates with a privilege. Accordingly, one may understand a privilege as a right that does not entail a duty, and thus it is a one-way legal relation (Hohfeld, 2016).

As a one-sided legal relation, a privilege does not involve another having a duty, and thus it truly cannot apply to all people in society (Hohfeld, 2016). First, if all people enjoyed a privilege it would no longer be a privilege, but instead a right (Hohfeld, 2016). At the same time, this would defy what a right is since if it were an overgrown privilege, it would leave open the possibility of no entity using, recognising, or supporting its negative, or dutiful aspect (Hohfeld, 2016; Kant, 1997). Consequently, one may claim that a privilege cannot apply to all people because if no government or society acknowledges or voluntarily supports it, it will fail as a right due to no one being willing to take the responsibility of it (Hohfeld, 2016). That is, a privilege can never be a right since a right involves responsibility whereas a privilege involves none or a “no-right,” and thus, if a privilege applied to all, it would be a “right-in-limbo.” Finally, a “right-in-limbo” would be that which meets the criteria of a positive freedom, or a right without another taking responsibility, while at the same time, not a privilege since it does not entail an acknowledged “no-right,” but instead an unacknowledged duty (Hohfeld, 2016; Kant, 1997).

Why is Health Care a Right?

To Hohfeld (2016), all-inclusive health care would be a right since it can gel with both first order and second order legalities. That is universal health care checks out as a right in equity and continuity. By a right in equity, Hohfeld (2016) claims that there exists an equal relation between two parties acknowledging a right and an obligation. To better demonstrate this point, take for example the case of a social contract in which a body of people sacrifice some rights to gain protection by a federal

body (Hohfeld, 2016). In this case, Hohfeld (2016) would claim that it is a right of people to receive protection in return for their obligation to adhere to government authority.

Using the same logic as the above example, one may claim that the right to life, which health care plays an integral role in, helps to justify that universal coverage falls under the category of a right (Hohfeld, 2016). In other words, Hohfeld (2016) would claim, at a surface level, universal health care would be equitable as a right, since people, in democratic societies, like the above example, sacrifice some power in return for basic guarantees which reflect their innate abilities for life, liberty, and the pursuit of happiness. Hence, nations which claim to value natural rights, equality, and freedom, would not be anything less if they embrace universal health care because as beacons of democratic principles, those rights do not defy the social contracts on which they and their peoples agree (Hohfeld, 2016).

At a second order level, healthcare would also be a right since it concurs with the nature of continuity (Hohfeld, 2016). In other words, to Hohfeld (2016), some figures possess powers or privileges which allow them to issue reforms of current laws or enact new ones. To him, this privilege is in the hands of the highest echelons of government, for example in democracies featuring executives, like presidents, chancellors, and prime ministers (Hohfeld, 2016). Consequently, the power of an executive, as acknowledged in democracies, has the right to amend laws or decree additional ones, which if legal, people must concurrently follow (Hohfeld, 2016). Hence, it is not undemocratic or illiberal if an elected and recognised leader exercises his or her right to lead, including the management of health care because regardless of his or her decision people will have a duty to oblige (Hohfeld, 2016). In other words, since people agree to recognise the power of whom they elect to govern, it follows that that person has a right to do so, and if that includes rehashing or providing all-inclusive health care, people are to listen (Hohfeld, 2016). Finally, this concurrence between acknowledged authority and voluntary submission allows for society to progress through legal relations, which can entail the right to health care if it reflects popular support and the lawful exercise of a leader's entrusted powers (Hohfeld, 2016).

From a Kantian (1970, 1997) perspective, health care would be a right since it reflects the positive and negative aspects of freedom, and thus, it could translate into a reality in both reason and experience. First, participation in health care reflects a negative freedom, or duty, since if a person never cared for his/her health, that individual would not live long, rendering it necessary for a long-life (Kant, 1970, 1997). Second, health care is a positive freedom, or it is the case that people have the power to choose between coverages (Kant, 1970, 1997). Unfortunately, this last point is where healthcare becomes a contested issue. That is, healthcare is a right in a Kantian sense, or it meets the requirements of a negative and positive freedom, but at the same time, not all democracies provide health care, which can block one's positive power to choose (Kant, 1970, 1997). Consequently, one may claim

that it is very undemocratic of so-called liberal societies to deny health care to anyone because doing so obstructs people's natural decision-making abilities (Kant, 1970).

Moreover, health care is a right in a Kantian (1970) sense because if a liberal government denies anyone of it, that government runs the danger of others ceasing to acknowledge it as democratic, and for a good reason. That is, stopping the coverage of some invites government to deny the coverage of many, and since that power would defy what a democracy is in concept, and once asserted, in practice, that government would cease to be a steward of rights, and instead an oppressive force (Kant, 1970). Also, as a threat to liberties, those democratic governments which deny even minimal government-funded healthcare offers others to justifiably regard them not as the protector, but rather the tyrannical sentry of rights (Kant, 1970). Hence, by providing health care to all, a liberal government avoids the risk of defying its liberality, which helps to solidify its image as a free-society and recognizer of people's innate powers and responsibilities, or rights (Kant, 1970).

Universal Health Care as Compatible with Democracy

For 19th-century English political theorist J.S. Mill (1956, 1998), societies composed of individuals who together form a whole. Furthermore, all people strive for happiness or that which they consider being the greatest good (Mill, 2002). Consequently, since all individuals aim for some good, and since they amalgamate a society, it is the right of a government, or a representative body featuring people acknowledged and voted to lead, to protect their interests collectively (Mill, 1956, 1998, 2002).

Accordingly, one may claim that government has the right to guarantee health care for all, while still being democratic since people voted in those representatives whom they entrust with the power to make decisions concerning the good of society (Mill, 1956, 1998, 2002). Also, because it is the right of a government to guard everyone's rights, and since health care is integral to the maintenance of society, it follows that although people's choices should be unregulatable by a government, it still has the authority to delegate the right to life which all individuals enjoy (Mill, 1956, 1998, 2002).

Moreover, one may argue the liberty to become an individual without hindrance is regulatable by a government only when it involves another causing that person physical harm (Mill, 1956). Fittingly, universal health care is implementable in a liberal society, without a democratic government being hypocritical since health care includes dealing with those victims of brutality who suffer from another stepping over the line of what government can and cannot address (Mill, 1956, 1998). That is, when one physically hurts another, that assailant is endangering the greater good of society by infringing on the right all people possess to be who they are, which allows a government to intervene and punish that conduct (Mill, 1956). Therefore, when the injured go to a hospital since they experienced physical pain which government guarantees to compensate for through punishing their batterer, it is

logical to assume that it can also reimburse them in the form of comprehensive health care to restore their chance at achieving the goal of individuality (Mill, 1956, 1998, 2002).

Also, in Mill's (1998) view, a government would have the right to administer health care since that which involves all people is more accurately a societal issue and not a personal one. That is since all individuals experience the pains of ill-health and because all people at one time or another will be part of a health care system, it is more accurate to describe health care institutions as a common reality all people face instead of only some (Mill, 1998). Accordingly, to Mill (1998), it would be in the jurisdiction of democratic governments to involve themselves in health care since it concerns all its members without exception.

Moreover, from the standpoint of happiness, it is also supportable that democratic governments can be compatible with universal health care (Mill, 2002). One way in which this is so is that Mill (2002) believes all people seek happiness and though a government does not have a right to decide how people should be happy, it does have the authority to provide them with opportunities to achieve happiness. Fittingly, Mill (2002) believes when a government leaves open the channels to happiness it is allowing for the promise of joy to become a reality for all. Hence, health care, which is integral to maintaining at least bodily happiness, is to the right of a government to provide because if there were absolutely no form of government provided health care, it would cease to be a genuine institution which allows for all people to define and find happiness for themselves (Mill, 2002).

Furthermore, Mill (1956, 2002) would claim governments can institute universal health care while at the same time remaining democratic. First, to Mill (2002), economies though made up of individuals, nevertheless fall under the jurisdiction of government because a full-fledged economy that can deal with both domestic and international trade can only be in the capacity of a government to regulate fairly. Therefore, to Mill (2002), a government can limitedly administer economies since something such as an unbridled *laissez-faire* state runs the risk of inequality and disorder. That is because a totally free-market jeopardizes a state's equality in intrastate matters which could affect its interstate aspect, due to the folly of leaving all economic power in the hands of individuals alone (Mill, 2002). Finally, to justify the hazards of totally free-market economies Mill (2002) points his readers to the fact that it would only take one, theoretically and practically, to fracture a society's economy if a government had no right to regulate it.

Fittingly, something such as universal health care, for the benefit of society's collective interest, is better for a government to economically support since it avoids dangers to financial success at home and abroad (Mill, 1956, 1998, 2002). One reason for this is that domestic and foreign trade relies on labor, and for economies to thrive they require a healthy workforce since an unhealthy one is far from promising (Mill, 1956, 1998, 2002). That is if a government is to be truly fair and democratic

in the sense that it is mindful of it and its people's best interests, it would only be right for it to provide health care since that is requisite to the economic success of all its members, and therefore, itself (Mill, 1956, 1998, 2002).

Problems Associated with Employer-Based and Individual-Mandated Health Care

To political scientist Marie Gottschalk (2007), there exists serious problems with both employer-based and individually mandated health care (Gottschalk, 2007). In the case of the latter, it is oppressive of governments to require and penalize businesses for not providing their employees with health coverage (Gottschalk, 2007). At the same time, it is unfair of government to tax those who cannot afford health insurance since it infringes on their ability to conduct their lives as they see fit (Gottschalk, 2007).

To Gottschalk (2007), a suitable solution to this problem would be if governments provided health care to all since it would be beneficial for the business sector as well as the individual. First, if the government absorbed an individual's health care cost, it would prevent the state from having to exert authority over that person through penalty, or fine (Gottschalk, 2007). Also, government-funded health care would contribute to economic growth because without corporations being under compulsion to provide health care, they would be in a better position to expand, create jobs, and heighten their workers' wages (Gottschalk, 2007). Hence, to Gottschalk (2007), since it is invalid of governments to force businesses to deny new horizons to their workers or tread on their rights by allowing them to face a fine if they do not seek coverage, demonstrates that neither corporation nor individual should be alone to regulate insurance.

Another way in which employer-based health care can be economically problematic is that it gives companies a reason to avert profit loss because of having to take on the brunt of their employees' health care cost, ultimately jeopardizing the financial aspect of the health care system (Gottschalk, 2007). That is, to avoid losing profits, corporations would have an incentive to circumvent their workforce's health care expenses by outsourcing their jobs or terminating their employment (Gottschalk, 2007). Accordingly, if these actions became a trend, it would pave the way for heightened unemployment and eventually no one left to cover in the long-run (Gottschalk, 2007). Consequently, businesses would be in danger of accruing irreversible debt while causing severe economic damage since there would be no one left to allocate funds from to pay another's health care cost if the government continues to burden companies to provide insurance (Gottschalk, 2007).

Furthermore, more individual-level or private insurance options are as equally economically fragile and dangerous as employer-based health care (Gottschalk, 2007). First, if people had no access to health care through their employers, there would be less money to buy goods and services, since it would increase health care costs (Gottschalk, 2007). Consequently, overpriced health care would

have damaging effects on an economy since it is deleterious to free-market consumerism while handing too much power to those running insurance companies (Gottschalk, 2007).

Moreover, individual mandated health care adds to the growth of inequality (Gottschalk, 2007). That is, those who cannot afford health care are left to scramble to find funds when they become sick whereas those who have private coverage can enjoy their right to life (Gottschalk, 2007). In the case of those who cannot pay for coverage, hospitals only acquire their debt which takes away from valuable funding for care, research, and innovation (Gottschalk, 2007). At the same time, the families of the uninsured may accrue massive debt too, which leads to a damaged quality of life and at times no money to care for themselves (Gottschalk, 2007).

Why should Democracies embrace Universal Health Care?

From a Kantian (1970, 1997) perspective, democracies should embrace comprehensive health care since it maintains people's natural abilities to strive and progress in life. That is, health care as a right satisfies both negative and positive freedom, which people can express by dutifully partaking in health care while at the same time enjoying the range of options universal health insurance can provide (Kant, 1970, 1997). Consequently, one may claim that when people participate in a universal health care system by freely choosing which version of that plan suits them best, they are fulfilling a categorical imperative (Kant, 1970, 1997).

In other words, to Kant (1970, 1997), one may interpret something such as all-inclusive health care in a universal and morally binding way. Accordingly, when people freely subject themselves to a health care plan, provided by a government, while at the same time agreeing to submit to its rules, they are reflecting the nature of freedom in an ethical way (Kant, 1997). Lastly, because universal health care would be congruent with Kantian (Kant, 1970, 1997) notions of natural rights and ethical, political conduct, neither liberal governments nor free subjects would be behaving in undemocratic ways if either decreed or followed the path to comprehensive health care.

Furthermore, to Hohfeld (2016), universal health coverage as a right can only be manageable by the financial security and authority wielded by liberal governments and not localities. In other words, for comprehensive health care to be a right it must reflect responsibility and freedom, which only the federal aspect of liberal governments can manage since local districts do not have the power to administer universal health care in a truly accountable way (Hohfeld, 2016). As such, the duty of providing and stewarding universal health care is only doable by federal bodies since the provincial jurisdictions composing them cannot enact a law that all others must follow or sustain the costs of providing all with universal coverage (Hohfeld, 2016).

Accordingly, because local governments cannot maintain or enforce universal health care outside their borders, it is only feasible and legitimate that the entirety of a democracy can recognise and protect this right (Hohfeld, 2016). That is, since only the totality of government can afford to take on the duty of paying and issuing universal health care, it would be very fitting for liberal federations to recognise this right since the theoretical and practical aspects of comprehensive health coverage concur with their abilities the most (Hohfeld, 2016).

Also, from Mill's (1956, 1998, 2002) perspective, it would be in the best interests of democracies to provide universal health care since that which concerns what all people partake in is in the hands of government to control. That is, health care is not something that some people need whereas others do not, rather it is a system which all people at one time or another have, are, or will involve themselves in (Mill, 1956, 1998, 2002). Accordingly, because health care concerns all members of society, and due to a liberal government being able to concern itself with what affects all its subjects, it follows that democracies would be wise to embrace all-inclusive health care because it is in the best interests of the people it swore to represent (Mill, 1956, 1998, 2002).

To Marie Gottschalk (2007), the disparities resulting from an employer or private sector health care plan gives credence to the view that government should universalize health care. To achieve this end, Gottschalk (2007) recommends that governments should support local legislative moves toward universal health care which reflect grassroots movements and the real concerns of voters. By doing so, governments can lessen the federal debt by sharing health care costs with provincial legislatures while also giving those states the freedom to tailor universal coverage to fit the needs of their constituents better (Gottschalk, 2007).

Furthermore, Gottschalk (2007) believes that universal health care would bypass unnecessary costs on both businesses and consumers if governments came to provide it. First, corporations would save money by not having to allocate resources to afford to cover their employees (Gottschalk, 2007). Second, people would not be subject to pay a fine if the government gave health care to all, effectively saving them money which could lead to more customer satisfaction and productive free-market activity (Gottschalk, 2007). Lastly, by taking health care out of the jurisdiction of businesses and people, and leaving it to a government, can pave the way for not only a more content society but also a greater and freer functioning economy (Gottschalk, 2007).

Conclusion:

The purpose of this piece was to explore the differences between rights in a Kantian sense and privileges in a Hohfeldian sense, to set the stage to argue why both theorists would agree that universal health care is a right. Next, by explicating the views of J.S. Mill and Marie Gottschalk, this article attempted to make the case that all-inclusive health care is democratic as well as economically

wise. Lastly, closing this piece with arguments as to why liberal societies should embrace universal health care, helps to show not only the integrality of this right but also how it would be favorable for democracies to embrace.

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