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Democracy is a concept that is frequently misunderstood. A great deal of this is due to repeated misuse of the term by Americans as well as by others around the world. In trying to explain our political system to ourselves and to our children, we simplify and call it a democracy. This has led to an enculturation of the idea that democracies are good and other systems are "evil." The fact that there are various types of democracies and that those differences become very important in application tends to be overlooked. The confusion comes when other countries with very different political systems also call themselves democracies. We forget that the old Soviet Union called its system "democratic centralism." We must first answer the question, "what is a democracy?"

This paper uses the traditional definition of democracy (*i.e.*, majority rule). There are three essential conditions that need to be present in a democracy: sovereignty rests with the people, there is equality of voters (one person, one vote), and the majority rules. Depending on the historic time frame, the United States fails consistently on one or two of these conditions. However, it is the third condition, majority rule, which has always cancelled out the notion of democracy in the United States.

It is telling that when Benjamin Franklin was asked what type of government the founding fathers had created in the Constitutional Convention his answer was "A republic, if you can keep it."[1] Notice he did not say a democracy, for a democracy was something that the founding fathers feared as much as they did a monarchy. The founding fathers supported notions of limited government, individual rights, an independent judiciary, and the separation of powers between legislative and executive functions. The rational behind this was that humans were bound to abuse power. The structure of government was intended to frustrate everyone, even the majority, from ever being able to gain too much control over the levers of government. As James Madison, author of the Federalist Paper #51 would state, "Ambition must be made to counteract ambition."[2] He would further state, "It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part…. If a majority be united by common interest, the rights of the minority will be insecure."[3]

There are so many structural and procedural blocks to majority rule in the United States that the majority seldom gets its way in our political system, especially regarding specific policies. You can look at issue after issue in which the majority's opinion is repeatedly overridden. This sometimes leads to cynicism with the system. To the founding fathers, frustrating the majority is a good thing, since the majority can be very dangerous. As stated by E. E. Schattschneider, "The American political system is less able to use the democratic device of majority rule than almost any other modern democracy…[4]

The term that is most frequently used to describe our political system is democratic pluralism. Democratic pluralism is the ability of those who have an intense interest in a particular policy to petition members of the government. The right to petition government is covered by the First Amendment to the Constitution, and it is the chief argument used against restrictions on lobbying. Under democratic pluralism, no one group is powerful with all policies, hence the notion of pluralism. Instead, policies come from the competition, accommodation, and alliance of issue-specific organized groups (we nickname them lobbying organizations). Depending on the issue, these groups wax and wane in terms of their influence, but in the meantime, the majority sits by and watches, or more commonly ignores, the political process. It is not that the majority cannot act or become dominant. There are times that it gets riled and does just that. However, the majority is not likely to do so.

The U.S. system of government is built on the tension between democracy (majority rule) and individual rights. That is why most issues regarding individual rights are usually not put to a popular vote; the majority would not approve. The Equal Rights Amendment of the 1970s is a classic example of how a simple statement to eliminate discrimination based on sex was defeated.

One of the major contributions of the United States political system has been the formalization of the concept of individual rights. Rights are traditionally thought of as either positive or negative, "freedom to" or "freedom from." Due to the concept of limited government, most of the American "rights" have been expressed in terms of freedom from government action (e.g., "Congress shall make no law respecting…") with few freedoms being stated in positive terms. Some state constitutions are more explicit in terms of positive rights. One common example of positive rights in state constitutions is the right to education. This is boldly stated in the N.H. Constitution and has been the source of recent conflict in terms of how to make that right a reality and how to fund it.

On the international level since the 1940's, the "right to health" has been adopted in multiple international agreements of which the U.S. is sometimes a signatory. This is reflected in article 25 (1) of the Universal Declaration of Human Rights (UDHR), article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), article 24 of the Convention on the Rights of the Child (CRC), and article 12 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the right to non-discrimination as reflected in article 5(e)(iv) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

The notion of rights in the United States has also evolved. The 9th Amendment of the Constitution was inserted by James Madison; there was no controversy regarding it during the adoption of the Bill of Rights. It is basically an escape clause indicating that the founding fathers might have forgotten to name all the individual rights that exist, but that those rights not explicitly named still exist and remain with the people. In the 1960's, the Supreme Court began to rule that a "right of privacy" was one of those unspecified rights that was covered by the 9th Amendment. Hence, the right of privacy became a protected right. A similar argument could be made for a "right to health care," but that is unlikely.

Why should we begin to think of health care as a right? Why is the right to health care in our common interest? The argument of universal health care can be made on individualistic as well as societal levels. Just as we are not born with equal intellectual abilities, we are at least provided an equal opportunity to education. So too one can argue that while we are not born with the same genes, we should be provided an equal opportunity to health care. This too would allow everyone to maximize their human potential. There is overwhelming epidemiological evidence that access to different levels of health care provides different health outcomes.[5] To the extent that medical interventions can impact health outcomes, those should be available to all in an egalitarian society. The U.S. experience with Medicaid and State Children's Health Insurance Program points to the importance of good health care to the educational and development process.

In addition, there are social advantages to universal health care. From a public health perspective, a healthy community leads to more healthy individuals from immunity and decreased risk from infectious diseases. This was the origin of the federal government's involvement in medical care—the provision of marine hospitals to protect individuals and society in general for diseases brought into seaports. Developing countries tend to focus on creating a healthy workforce—hence the origins of employer-based health care in Germany in the 19th century. The notion of national defense has also been integral in the health debate. The draft during World War II demonstrated that a large percentage of the rural population (a normal source of military recruitment) was physically unfit for military service. Rural hospitals would strengthen national defense, hence the Hill-Burton Act of 1946. In addition, the concept of social solidarity, that we are one people who take responsibility for each other, is another part of the argument for universal coverage.

There are also characteristics of the medical care system that make it ill suited to the capitalist market system and require governmental intervention. There are natural monopolies of supply that exist. There is a lack of information regarding cost and quality. There is a lack of control by the patient in that the physician is the one that determines most of what is to be purchased. There are certain public goods such as research and education of health professionals that are not market-driven. Finally, most health economists agree that our problem with the cost of medical care cannot be addressed until we confront the problem of universal access. The problems of cost shifting and the actuarial burden on those with illnesses cannot be solved until there is a universal pool.

The United States spends almost twice as much per capita than any other country in the world, and one of the major reasons for this is that we have 46 million uninsured (18% of our population). In 2004, the United States spent $6,102 per capita while Canada, the second most expensive country, spent $3,165.[6] The United States also spends almost twice the percentage of its

gross national product (GNP) as other countries in the Organization for Economic Co-operation and Development (OECD). In 2004, the U.S. spent 15.3% of its GNP on health care while the OECD average was 8.9%. The closest to the U.S. percentage was Switzerland at 11.6% while Canada was at 9.9%, and the United Kingdom was at 8.3%.[7] The United States has clearly the most expensive health care system in the world.

Despite being the most expensive, the United States health care system is the most underperforming system for producing good health. The availability of data on a cross-national basis makes it difficult to measure all possible measures of a health care system. However, in 2000, the World Health Organization (WHO) completed the first major comparison of the world's health care systems. The United States ranked 37th overall.[8] The Commonwealth Fund, a U.S.-based non-partisan health policy organization has done a comparison over the years of the Australian, Canadian, German, New Zealand, United Kingdom, and United States health care systems. Its study focused on quality, access, efficiency, equity, and healthy lives by using 69 different measures. Data comes from comparative system data as well as citizen surveys. In its most recent comparison, the United States came in last in most every measure of performance.[9] This mirrors its previous studies. The provision of preventive care was the one area in which the United States performed well. In safe care measures, it was last or next to last in four of the five measures. In terms of efficiency, it was last or next to last in terms of seven out of the eight measures. The U.S. ranked last on all measures of equity.

One of the most comprehensive examinations of the quality of medical care in the United States was published in the *New England Journal of Medicine* in 2003.[10] It found that patients in the United States receive 54.9% of recommended care that they should be getting according to standards of medical practice. This holds true for preventive care, acute care, or chronic care.

The provision of universal health care and the provision of high quality health care systems are not antithetical to the concept of democracy. OECD countries, nearly all being recognized democracies, have universal health care. Thus, the question is: "what is so different about the U.S. version of democracy?"

The Henry J. Kaiser Family Foundation has been tracking the public's view of health care for a number of years.[11] In the most recent poll available as of this writing, the Iraq war is the top issue with 44% of the population agreeing that it was the most important issue. Second was health care with 29% considering it the most important issue and third was the economy. Regarding health care, people were asked if they would support a new heath care plan that would provide insurance for nearly all of the uninsured but would also involve substantial increases in spending. It received support by 52% of those polled (Democrats, 66%, Independents 52%, and Republicans 38%). The majority, although a slim majority, actually supports universal health care.

During the coming election each candidate and each party will put forth some type of plan to solve our "health care crisis." Some of these proposals, but not all of them, will call for universal health care coverage. This, of course, is not the first time that this issue has been debated. Lest we forget, Richard Nixon had a proposal for universal health care coverage in the 1970's long before Hilary Clinton attempted to solve it in the 1990's. Indeed, the issue has been debated on and off for 60 years. When we last debated the issue in the 1990's, there were 36 million uninsured instead of today's 46 million.

Since the 1940's, we have periodically put this issue to the test. Why has it not passed? Each time, democratic pluralism, our form of "democracy," has prevented its passage. Special interests involved with medical care have had the ability to block proposed legislation time-after-time. Sometimes it has been the medical community (*e.g.*, the American Medical Society); at other times, it has been big business (*e.g.*, US Chamber of Commerce), or small businesses (*e.g.*, National Small Business Association), and/or insurance companies (*e.g.*, Health Insurance Association of America, which is now America's Health Insurance Plans) that have objected to universal coverage. While the details of the proposals are not unimportant, the major point is that concentrated interests in every case have been able to defeat the concept of universal health care, because democratic pluralism and the political structure make it easy to do so. Attacks on universal health care frequently get disguised in ideological dress as "socialized medicine" and more recently as "big government." Any measure to promote the public good comes at a cost, but these costs are not evenly distributed, and those advantaged by the current system vehemently prevent change.

There are three major functions for a health care system in a country: to remove threats to the public's health and promote a healthy population (public health), to provide cures, repairs, stabilization, and/or comfort for individuals with diseases and disabilities (medical care), and to provide employment (hospitals, physician practices, laboratories, insurance companies,

etc.). We frequently overlook the fact that medical care is over a $2 trillion business in the United States. Medical care is generally the largest single industry in any major city, major suburb, or dominant rural community. With the U.S. market relying on the free market, there is a great deal of money to be made or lost. To protect their interests, this industry employs a substantial number of relatively well-paid professionals who are organized in various professional associations at the state and national levels.

As an example, Americans have been subsidizing pharmaceuticals in most of Europe and Canada for decades. These countries negotiate with the pharmaceutical companies for their best price, and those companies are willing to give them major discounts, knowing that they have the U.S. market to make up the difference. In contrast, the Medicare Modernization Act of 2003 (MMA) prohibits the United States from entering into such negotiations, even though the Veterans Administration is able to achieve substantial savings by doing that.[12] The passage of MMA was a classic example of the power of lobbyists. In addition to the $100 million per year that the pharmaceutical industry spends in Washington for lobbying activities, it spends an additional $44 million to lobby state governments.[13] Representative Billy Tauzin (R-LA), then Chair of the Commerce Committee and co-author of MMA, negotiated a $2 million per year position as CEO of the Pharmaceutical Research and Manufacturers of America (PhRMA), the pharmaceutical industry's major lobbyist. Tom Scully, Director of Centers for Medicare and Medicaid Services (CMS), who threatened to fire CMS' chief actuary if he revealed the higher than publicly revealed estimated cost of MMA, received an ethics waiver and left shortly after MMA was passed to become a health care lobbyist for two firms in Washington.[14] There are 13,595 registered lobbyists in Washington, DC.[15] Since there are 536 elected members of Congress, this means there are more than 25 lobbyists for every elected official making policy decisions. In 2003, lobbying in Washington surpassed $2 billion per year. This number does not include money spent on campaign contributions.

The reason we do not have universal health care is not because democracies are unable to provide such benefits; most democracies around the world do so. However, one major factor is our type of democracy, democratic pluralism. Powerful interest groups have been able to defeat legislative proposals, one after the other, for the past 60 years. If we are to have universal health care, there are a few routes: to change the rules of political access by limiting the power of lobbying groups, to have a division of interests among those who historically have opposed universal health care, to await the wrath of a re-wakened majority when there are 50 or 60 plus million uninsured, or to have an emergence of enlightened self-interest by the medical/insurance community to prevent more radical choices (a single payer system). The first route is the least likely, since the current system is constitutionally protected, and any change would threaten non-health care segments, as well. The forces of globalization whereby U.S. industries are competing with countries where health care's costs are substantially less and whose costs are not born principally by industry have begun to crack the opposition to universal health care by a united business community. As more middle class individuals become part of the increasing numbers of uninsured and have their medical care stability threatened, universal health care will become increasingly attractive to more people, and the majority may force its way back into the political process. It is not clear which of the alternatives will prevail, but our form of democracy has delayed the decision that other countries made long ago to establish universal health care as an equitable, effective, and cost efficient means of delivering health care.

Endnotes

[1] Walter Isaacson, *Benjamin Franklin; An American Life* (New York: Simon & Schuster, 2003) 459.

[2] Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers* (New York: The New American Library, 1961) 322.

[3] Alexander Hamilton, James Madison, John Jay, *The Federalist Papers* (New York: The New American Library, 1961) 323.

[4] E. E. Schattschneider, *The Semisoverign People: A Realists View of Democracy in America* (New York: Rinehart and Winston, 1960).

[5] Institute of Medicine, *Hidden Costs, Value Lost: Uninsurance in America* (Washington, D.C.: The National Academies Press, 2003).

[6] Organization for Economic and Co-Operative Development (OECD) Health Data, 2006.

[7] OECD Health Data, 2006.

[8] WHO, *World Health Report*, 2000.

[9] Karen Davis, Cathy Schoen, Stephen C. Schoenbaum, Michelle M. Doty, Alyssa L. Holmgren, Jennifer L. Kriss, and Katherine K. Shea, *Mirror, Mirror on the Wall: An International Update on the Comparative Performance of American Health Care*, The Commonwealth Fund, May 2007.

[10] Elizabeth A. McGlynn, Steven M. Asch, John Adams, Joan Keesey, Jennifer Hicks, Alison DeCristofaro, and Eve Kerr, "The Quality of Health Care Delivered to Adults in the United States," *New England Journal of Medicine*, 348: 26 (June 26, 2003) 2635–2645.

[11] Henry J. Kaiser Family Foundation, "Kaiser Health Tracking Poll: Election 2008," March 2007, http://www.kff.org/kaiserpolls/pomr032907pkg.cfm

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[15] Eliza Carney and Bara Vaida, "Special Report—Shifting Ground," *National Journal* (March 31, 2007)