

Obamacare: A Reflection on Some Social and Moral Implications

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There has been a lot of controversy since the US President signed the Patient Protection and Affordable Care Act, often abbreviated to “ACA” and most commonly known by its adopted nickname of “Obamacare”, on March 23, 2010. However, the uproar surrounding it reached an unforeseeable peak in the last three months of 2013, when the Obama administration had to intervene, postpone and even nullify some important provisions of the Act that were due to come into force on January 1, 2014. The changing rules, cancelled plans, communication gaps and website breakdowns have added up to a very messy rollout and to headaches all round, including consumers, insurance companies and the same White House.¹

Enrolment problems

It seems that the disastrous beginning to the implementation of the law was largely due to a defective website. Incredible as it is to believe, even if amateurs had been behind the computer software, the Health and Human Services Department (HHS) and its chairwoman, Kathleen Sebellius, who were responsible for the implementation of the program, discovered at the last moment that the program was not operational. The consequences have been, among others, that millions of people have lost their old insurance without being able to obtain another plan at a similar price, or even to apply for a new one at all.² In order to remedy the disruptions caused by the malfunctioning of the website, the Obama administration had to make more than twenty

modifications and corrections with regard to implementing the law, within a timeframe of a little more than a month, some with significant impact. Yet, up until the time of writing this article, no-one in the administration had been fired or even reprimanded. Is this a sign of benevolence or an admission that the responsibility of this mess has to be ultimately attributed to the President himself? Let us leave aside the answer to that question, since at present, the real issue is how to fix the mess. One of the problems is that, at this point, nobody really knows how much damage has been caused to how many people, as well as to the businesses, the insurance companies and, more in general, to the nation as a whole. It appears for now that the miserable beginning of the health reform has contributed to a further loss of credibility on the part of the Federal Government which had already been severely shaken by other embarrassing revelations. First among these there was the spying activity of the National Security Agency (NSA), perpetrated against US citizens and some important international allies.³

The Opposition

Apart from these recent troubles, mostly caused by the malfunctioning of the website, why has Obamacare so far encountered so much opposition? After all, the law tries to remedy two major social injustices perpetrated for decades against a significant proportion of the American population, by offering insurance to the majority of the almost 50 million Americans currently without medical insurance and making it mandatory for insurance companies to accept

clients with pre-existing conditions without exceptions. An obvious answer is the alleged ideological opposition of the Republican Party, whose main representatives have labelled Obamacare an attempt to introduce socialism into the county, and with it every sort of evil.

The violence of the Republican attack, which has mainly been of an ideological nature, has somewhat obscured other problems related to the content of the law and its application. Not many critics have pointed, for example, to the complexity of the Act. Suffice it to say that the Bill signed into Law by the President is about one thousand pages long! It is not easy to read nor to understand, even for highly educated people. The various syntheses of the Act, which are published on pro-government websites and are meant to explain the law in plain English, are composed of dozens and dozens of sub items that together make up a text that runs to a hundred or so written pages.⁴ The complexity and the length of the text adds to the confusion among consumers, confused as they already are by the malfunctioning website and the numerous corrections introduced so far.

The moral issues

The major objection raised, however, beyond those arising from an ideological position or from technical problems, is of a moral nature. It regards mainly two major issues: abortion, and the so-called “contraceptive mandate”.

Abortion is not new among the controversial issues debated in America. Members of the Congress, a number of States that are generally ruled by Republicans, several pro-life associations and, most of all, the Catholic church, have been very active in opposing and restricting abortion since its legalization by the Supreme Court in 1973 with the famous verdict known as *Roe vs Wade*. The above pro-life groups, among others, are opposed to Obamacare because they are

convinced that it is going to increase funds for abortion. The Obama administration denies such an allegation. The President has made several assurances that the new law has nothing to do with abortion, such as this one in a speech on September 9, 2009: “*Under our plan no federal dollars will be used to fund abortions and federal conscience laws will remain in place*”.⁵ Can the President’s statements, however, really be taken as a guarantee? After all, other statements made by the President on this matter have clearly been contradicted by the facts. It is common knowledge, for instance, that the President misled the American people when he repeatedly and emphatically reiterated that: “*If you like your health care plan, you can keep it*”.⁶ Several opinion surveys have indicated this statement as the “Lie of the Year” in 2013.

As a matter of fact, Obamacare is going to finance abortion substantially in several ways, even though this may not be evident at first glance, mainly through Medicaid and the public subsidies granted to new individual plans. Medicaid is the nationwide public health insurance system. Presently, it covers more than 62 million Americans, mainly among those on low-incomes, including eligible members of their families. Abortion is among the “benefits” offered by Medicaid. Once Obamacare is fully enforced, it could add another 21 million people to Medicaid, according to projections made prior to the June 2013 pronouncement of the Supreme Court.⁷

A second way abortion will be financed by Obamacare is through the additional benefits that private health insurance now has to provide. Among those benefits there is abortion. The Obama administration once again denies such an allegation because the law allows for coverage to exclude this, both on the part of the insurer and of the consumers who do not want abortion. This defence appears to be a half truth at most. It is very difficult to understand whether an insurance policy is offering abortion

or not.⁸ For this reason some groups have proposed legislation to force the insurance companies to be clear upfront if they offer abortion benefits or not. Among these groups there are important exponents of the Catholic Church, including Cardinal O' Malley of Boston.⁹ But the main boost to abortion financing will come from the public subsidies which many consumers will receive if their income is not sufficient to cover the cost of the insurance. It is estimated that the cost of subsidies to the taxpayer for the next ten years will be around \$233 billion.¹⁰

The second main moral objection to the law regards the so-called contraceptive mandate. Among the extensions of benefits introduced by Obamacare there is the obligation to provide contraceptives, including abortion-inducing drugs. Many faith-based groups, led by the Catholic church, have pointed out that this represents a violation to freedom of conscience and religious liberty. Individual applicants and employers, including the many Catholic institutions in the country, will be forced to adopt these provisions even if they should be contrary to their faith. The Obama administration has responded to these objections by stating that this problem has been solved, as it has introduced an exception to the contraceptive mandate for organizations whose employees are mostly composed of clergy personnel. This correction, however, is too limited, since the biggest institutions, such as the religiously-affiliated hospitals, schools and social services, employ mostly lay people and so will be not exempted from the contraceptive mandate. Furthermore, other employers, without any affiliation to any religious group, are in disagreement with the contraceptive mandate which, after all, will increase the level of their premiums and go against individual moral beliefs. Since the Obama administration has continued to defend its original position, several lawsuits have been initiated by those opposed to the contraceptive mandate. The 80 lawsuits so far activated have produced different results and many others are pending.

The Supreme Court has finally decided to review this case sometime in early spring of 2014. The fact that the Supreme Court has decided to review the contraceptive mandate means that the problem of freedom of conscience exists, differently from what the White House has maintained.

Some final considerations

Given the difficult start-up of Obamacare, it is worth asking whether these difficulties are a result of temporary technical hiccups or whether they are an indication that the law is going to create more problems to the healthcare system than those it was supposed to solve? To respond to this question it is necessary to understand that Obamacare is not a reform of the healthcare system as such, but rather of the American insurance system regarding healthcare. This distinction is essential to understanding the opposing judgments on the present system correctly, beyond ideological positions. Some people are convinced that American healthcare is the best in the world, while others think the opposite. There is some truth in both of these opinions, depending on what you mean by the American healthcare system. Firstly, while there is no doubt that the quality of American healthcare is among the best in the world, it is also true that access to this quality care is almost impossible for a large part of the population. Let us not forget that the United States is the only nation apart from South Africa among the members of the OECD not to have a system of universal health coverage. Currently about 15% of the population, equivalent to almost 50 million people, are without medical insurance at any given time. Secondly, the US spends more than double the average of the other OECD countries on healthcare (\$ 8.223,00 versus \$ 3.268,00 per capita in 2010), yet it has one of the lowest average life expectancies among those nations.¹¹ How is this possible? A solution to this huge problem cannot be suggested here. What we can note are some of the peculiar characteristics of the American healthcare

system which create negative results for it, especially in relation to accessibility, and which have their roots in the complex fragmentation of the system and the disproportionate power of the insurance companies. While Obamacare is trying to fix those problems, it has also introduced additional controversial issues such as those related to moral questions. In other words, instead of simplifying a system that was already extremely complicated, this healthcare reform is adding more complexity to it. Among those complexities are the moral problems raised by abortion and the contraceptive mandate and their implications for freedom of conscience and religious liberty. Simply stating

that the law has nothing to do with abortion and freedom of conscience is nothing more than a denial of the evidence, merely accelerating the loss of credibility of the White House. Historical experience shows that when a political system starts to reduce religious freedom, all kind of attacks on other expressions of liberty are likely to follow. At the beginning of his mandate, President Obama aimed to bring transparency to the dealings between the White House and US citizens, and to reduce social inequality. Sadly the troubled beginnings of the health insurance reform seem now to be going in the opposite direction.

NOTE:

¹ Cfr: <http://www.politico.com/story/2013/12/obamacare-confusion-mandate-101385.html#ixzz2oBTRGwoT> (last accessed 30.12.13).

² Fox News.com: at 11/8/2013, 4.8 million Americans had already received cancellation notices from their previous insurance companies, sent between 1st October and the beginning of November 2013, and many others were to follow.

³ Cfr. The Guardian, *Obama's annus horribilis*, December 26, 2013

⁴ Cfr. the website "Obamacare Facts, dispelling the myths", <http://obamacarefacts.com/> (last accessed 30.12.13).

⁵ The Charlotte Lozier Institute has estimated that the annual increase in fully publicly funded abortions due to Obamacare, through Medicaid or/and subsidized through the medical plans, could reach to between 71,000 and 111,500, <http://www.lozierinstitute.org/> (last accessed 30.12.13).

⁶ Tampa Bay.com, 12/12/13 reported: "If you're one of the more than 250 million Americans who already have health insurance, you will keep your health insurance," Obama said. "This law will only make it more secure and more affordable."... "Nothing in Obamacare forces people out of their health plans," said Valerie Jarrett, a top adviser to Obama, on Oct. 28.

⁷ On June 28, 2013, the Supreme Court ruled that it is optional for the States to accept or opt out of the Medicaid expansion offered by Obamacare. At the time of writing, 21 States have opted out from Medicaid expansion. This will inevitably reduce the original

projection of 21 million new Medicaid enrollees that had been estimated.

⁸ Consider that every insurance plan provides manuals explaining the contents of the plan that run to hundreds of pages and are not easy to decipher or understand.

⁹ Cardinal O Malley during a conference at the North American college in Rome on March 2, 2013, urged members of Congress to support the Abortion Insurance Full Disclosure Act, which would require health plans to disclose if they subsidize abortion coverage. O'Malley's support came days after Health and Human Services (HHS) Secretary, Kathleen Sebelius, pleaded ignorance on abortion funds. Cfr. www.zenit.org, November 21, 2013.

¹⁰ The Congressional Budget Office quietly raised the 10-year cost of Obamacare's insurance subsidies offered via the health law's exchanges by \$233 billion, according to a Congressional Budget Office review of its latest spending forecast. See <http://news.investors.com/020513-643239-obamacare-exchange-subsidy-cost-raised-by-cbo.htm#ixzz2oYwHK7Kk> (last accessed 30.12.13).

¹¹ Cfr. www.oecd.org/health/healthdata. 2010